

## **SUPPLY OF SERVICES TERMS AND CONDITIONS**

1. This Contract is made up of the following:
  - (a) the Contract Details.
  - (b) the Terms
  - (c) the Brief.
2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.
3. Before signing, the Customer is advised to read this Contract (including the Terms and its Schedules) carefully. By signing this Contract the Customer agrees to be bound by the terms and conditions of this Contract, including the Terms (irrespective of whether the Customer has actually read them). If the Customer does not formally indicate its acceptance of the Terms but takes the Services (or any part of them) after receiving this Contract, then such taking of the Services shall be deemed to be acceptance of this Contract from the date the Services Start Date.
4. In particular, the Customer's attention is drawn to following clauses of the Terms: Clause 7 (Warranties), Clause 8 (Limitation of Liability) and Clause 18 (Entire Agreement).
5. This Contract has been entered into on the date stated at the beginning of it.
6. The parties hereby agree to be bound by the terms set out in this Contract.

## **TERMS**

1. **Interpretation & basis of contract**
  - 1.1 These Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
  - 1.2 By accepting the Services and/or paying the Charges, the Customer indicates its acceptance of the Terms.
  - 1.3 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with the Terms.
  - 1.4 Any quotation given by the Supplier shall not constitute an offer. The Order constitutes an offer by the Customer to purchase Services in accordance with these Terms. The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order (including by issuing Contract Details or a Brief).
  - 1.5 The definitions and rules of interpretation set out in Schedule 1 shall apply in the Contract.
2. **Scope**
  - 2.1 The Supplier shall:
    - (a) prepare and issue the Brief;
    - (b) design, develop and deliver the Site in accordance with the Brief; and
    - (c) provide the Services and the Additional Services (if any) in accordance with these Terms.
  - 2.2 The Customer must ensure that the terms of any Contract (including any Brief prepared by the Supplier) are complete and accurate and fully reflect the Customer's requirements. The Customer acknowledges and confirms that they have had an opportunity to carry out a thorough due diligence exercise in relation to the Services including asking questions they

consider are relevant and making their own respective enquiries to satisfy themselves as to the accuracy and completeness of any information received including the completeness and accuracy of the Brief, and has raised all relevant due diligence questions with the Supplier before the Services Start Date and has entered into this Agreement in reliance on its own due diligence

### **3. Parties' responsibilities**

- 3.1 The Customer acknowledges that the Supplier's ability to provide the Services and the Additional Services (if any) is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of any information and data provided by, on behalf of, the Customer to the Supplier. Accordingly, the Customer shall provide the Supplier with access to, and use of, all information, data and documentation reasonably required by the Supplier for the performance by the Supplier of its obligations under this Contract.
- 3.2 The Supplier shall not be liable for any delays in its performance or non-performance of its obligations under this Contract resulting from the Customer's failure to fulfil any of its obligations in a timely manner. The Supplier reserves the right to invoice the Customer for any additional expenses reasonably incurred by the Supplier as a result of such delays.
- 3.3 The Customer shall be responsible for the accuracy and completeness of the Materials and the Content in accordance with clause 10.
- 3.4 The Customer shall remain responsible for the use of the Site and the Content, including any use by third parties (whether fraudulent or invited by the Customer).
- 3.5 The Customer must take reasonable measures to ensure that its use of the Service and any Additional Services (if any) (including any use or access of the Hosting Platform (if any)) does not jeopardise services supplied to third parties. This includes informing the Supplier promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident the parties shall discuss and agree appropriate action (including suspending the Services or any part of them).
- 3.6 The Customer acknowledges that the use of the Hosting Services shall be subject to the resource limitations relating to data storage bandwidth and processor utilisation.
- 3.7 The Customer acknowledges that any Demonstration Content is provided by the Supplier for demonstration purposes only. The Customer is responsible for ensuring that no Demonstration Content is displayed on the Site in an operational, live environment.

### **4. Development and acceptance of the Site**

- 4.1 Once the Supplier has completed the design and development of the Site in accordance with the Brief, the Supplier shall run the Acceptance Tests. The procedure set out in this clause 4 shall be repeated in respect of any further development works agreed by the parties from time to time.
- 4.2 The Acceptance Tests shall test compliance of the Site with the Site Description. The Supplier shall undertake such Acceptance Tests in relation to the Site as it deems fit. The acceptance criteria for such tests shall be objective. The Customer shall promptly provide such assistance as the Supplier may reasonably require in order to complete such Acceptance Tests. In the event that any Acceptance Tests are not successfully completed, the Supplier shall be given the opportunity to retest such elements which were not successfully completed and/or (with the consent of the Customer (not to be unreasonably withheld or delayed)) to modify the Acceptance Tests or acceptance criteria. The Supplier shall notify the Customer once all Acceptance Tests have been successfully completed.
- 4.3 Acceptance of the Site shall occur when the Site has passed the Acceptance Tests. The Supplier shall notify the customer when the tests have been passed.

- 4.4 If any failure to pass the Acceptance Tests results from a defect which is caused by an act or omission of the Customer, or by one of the Customer's sub-contractors or agents for whom the Supplier has no responsibility (**Non-Supplier Defect**), the Site shall be deemed to have passed the Acceptance Tests notwithstanding such Non-Supplier Defect. The Supplier shall provide assistance reasonably requested by the Customer in remedying any Non-Supplier Defect by supplying additional services or products. The Customer shall pay the Supplier in full for all such additional services and products at the Supplier's then current fees and prices.
- 4.5 Acceptance of the Site shall be deemed to have taken place upon the occurrence of any of the following events:
- (a) the Customer uses any part of the Site for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or
  - (b) the Customer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of seven working days from the date on which the Supplier is ready to commence running such Acceptance Tests or retests.

## 5. **Third party products**

The Third Party Products shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such Third Party Products is included in the Charges payable under clause 6.1.

## 6. **Charges and payment**

- 6.1 The Supplier shall issue an invoice in respect of the Charges and the Additional Services Charges (if any) and the Customer shall pay to the Supplier the Charges and the Additional Services Charges (if any) set out in such Supplier's invoice.
- 6.2 The Customer acknowledges that to the extent that the Supplier provides the Hosting Services free of charge, the Supplier does so as a gesture of goodwill and that the Supplier reserves the right on 30 days' written notice to charge the Customer Hosting Fees (including in circumstances where the Customer's use of the Hosting Services breaches the applicable resource limitations). To the extent that Hosting Fees are payable, the Supplier shall invoice the Customer monthly as of the last day of each month for all Hosting Services performed by the Supplier during that month.
- 6.3 All invoices are due and payable 14 days after the invoice date.
- 6.4 All Charges and Additional Services Charges (if any) are non-cancellable and non-refundable.
- 6.5 All Charges and Additional Services Charges (if any) are exclusive of VAT. The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier any additional amounts in respect of VAT as are chargeable on the Services or the Additional Services (as the case may be).
- 6.6 Without prejudice to any other rights or remedies of the Supplier, if the Customer fails to make any payment due to the Supplier under this Contract by the due date for payment:
- (a) interest shall accrue on a daily basis on such due amounts at the rate of 4% per annum above Barclays Bank's base rate from time to time from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount;
  - (b) the Supplier may suspend the supply of the Services and any Additional Services (or, in each case, any part of them) until the overdue amount has been paid in full.

## 7. **Warranties**

- 7.1 Each of the parties warrants to the other that it has full power and authority to enter into and perform this Contract.

- 7.2 The Customer warrants that it is contracting with the Supplier as a business and not as a consumer (that is an individual acting wholly or mainly outside of that individual's trade, business, craft or profession).
- 7.3 The Supplier shall perform the Services and the Additional Services (if any) with reasonable care and skill.
- 7.4 The Supplier warrants that the Site will perform substantially in accordance with the Site Description for a period of three months from Acceptance. If the Site does not so perform, the Supplier shall, for no additional charge, carry out any work necessary in order to ensure that the Site substantially complies with the Site Description.
- 7.5 The warranty set out in clause 7.4 shall not apply to the extent that any failure of the Site to perform substantially in accordance with the Site Description is caused by any Materials or any Non-Supplier Defect.
- 7.6 This Contract sets out the full extent of the Supplier's obligations and liabilities in respect of the supply of the Services and the Additional Services (if any). All conditions, warranties or other terms concerning the Services which might otherwise be implied into this Contract or any collateral contract (whether by statute or otherwise) are hereby expressly excluded. In particular, the Customer acknowledges that, by its nature, software is:
- (a) never wholly free from defects, errors and bugs; and subject to the other provisions of this Contract, the Supplier gives no warranty or representation that the Site will be wholly free from defects, errors and bugs;
  - (b) never entirely free from security vulnerabilities; and subject to the other provisions of this Contract, the Supplier gives no warranty or representation that the Site will be entirely secure.

## 8. **Limitation of remedies and liability**

**WARNING: you are strongly advised to read this clause.**

- 8.1 Nothing in this Contract shall operate to exclude or limit the Supplier's liability for:
- (a) death or personal injury caused by its negligence; or
  - (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (c) fraud; or
  - (d) any other liability which cannot be excluded or limited under applicable law.
- 8.2 The Supplier shall not be liable to the Customer for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.
- 8.3 Subject to clause 8.1, the Supplier's aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with this Contract or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed 125% of the total Charges paid by the Customer to the Supplier under this Contract in that calendar year.
- 8.4 THE CUSTOMER ACKNOWLEDGES THAT THE SUPPLIER SHALL NOT PROVIDE ANY LEGAL ADVICE UNDER THIS CONTRACT INCLUDING IN RELATION TO THE SITE OR THE CONTENT; AND, EXCEPT TO THE EXTENT EXPRESSLY PROVIDED OTHERWISE IN THIS CONTRACT, THE SUPPLIER DOES NOT WARRANT OR REPRESENT THAT THE CONTENT OR THE SITE OR THE USE OF THE CONTENT OR THE SITE BY THE CUSTOMER OR ANY OTHER PERSON WILL NOT GIVE RISE TO ANY LEGAL LIABILITY ON THE PART OF THE CUSTOMER OR ANY OTHER PERSON. ACCORDINGLY, THE CUSTOMER SHALL CARRY OUT ITS OWN DUE DILIGENCE IN

RELATION TO THE CONTENT AND THE SITE AND SHALL TAKE APPROPRIATE PROFESSIONAL ADVICE THEREON.

- 8.5 The Customer shall indemnify and hold the Supplier harmless against all costs, claims, damages, losses and expenses incurred by the Supplier as a result of:
- (a) any claim that arises in connection with the Site or the Content (including any claim arising as a result of the Customer's negligence); and
  - (b) any breach by the Customer (whether by act or omission) of the provisions of the Contract.

## 9. **Intellectual property rights**

- 9.1 All Intellectual Property Rights in any domain names registered by the Supplier on the Customer's behalf shall be the property of the Customer, and the Supplier hereby assigns absolutely with full title guarantee all such Intellectual Property Rights to the Customer.
- 9.2 All Intellectual Property Rights in the Site (including in Site Software), but excluding the Materials, arising in connection with this Contract shall be the property of the Supplier, and the Supplier hereby grants the Customer a non-exclusive licence of such Intellectual Property Rights for the purpose of operating the Site.
- 9.3 The Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials or the Demonstration Content infringe the Intellectual Property Rights of a third party.
- 9.4 The Supplier shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that the Site infringes any Intellectual Property Rights of a third party in the UK, other than infringements referred to in clause 9.3.
- 9.5 The indemnities in clause 9.3, clause 9.4 and clause 10.5 are subject to the following conditions:
- (a) the indemnified party promptly notifies the indemnifier in writing of the claim;
  - (b) the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;
  - (c) the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
  - (d) the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.
- 9.6 The indemnities in clause 9.3, clause 9.4 and clause 10.6 may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

## 10. **Site content**

- 10.1 The Supplier shall update the Site with Materials provided from time to time by the Customer but no more than once in any month during the term of this Contract. The Customer shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including 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**).
- 10.2 Subject to clause 10.3, the Supplier may (at its discretion) grant the Customer access to the Hosting Platform in order to administer the Site.
- 10.3 To the extent that the Customer is granted access to the Hosting Platform pursuant to clause 10.2, the Customer warrants that it shall immediately comply in full with all instructions

issued by the Customer or the hosting provider in relation to use of the Hosting Platform (including any relevant acceptable use policy and any instruction to stop using the Hosting Platform).

- 10.4 The Customer acknowledges that the Customer is responsible for the Content (including any Demonstration Content) and that the Supplier has no responsibility for any Content (including content placed on the Site by Visitors) and does not purport to monitor the Content. The Supplier reserves the right to remove content from the Site where it reasonably suspects such content is Inappropriate Content.
- 10.5 Notwithstanding the generality of clause 8.5, the Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.
- 10.6 The Supplier may include the statement "Designed by Tarka Web Design" on the home page of the Site in a form to be agreed.

## 11. **Data protection**

- 11.1 The Supplier warrants that, to the extent it processes any Personal Data on behalf of the Customer:
- (a) it shall act only on instructions from the Customer; and
  - (b) it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
- 11.2 The Customer acknowledges that the Supplier is reliant on the Customer for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. Consequently, the Customer agrees to indemnify and keep indemnified and defend at its own expense the Supplier against all costs, claims, damages or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Supplier to comply with its obligations under clause 11.1.
- 11.3 In this clause 11, the terms **Personal Data** and **process** have the meanings ascribed to them in the Data Protection Act 1998.

## 12. **Term and termination**

- 12.1 This Contract shall commence on the Services Start Date and shall continue, unless terminated earlier in accordance with this clause 12, for a period of eighteen (18) months (**Initial Term**) and shall automatically extend for twelve (12) months (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term. A party may give written notice to the other party not later than three (3) months before the end of the Initial Term or the relevant Extended Term, to terminate this Contract at the end of the Initial Term or the relevant Extended Term, as the case may be.
- 12.2 Without affecting any other right or remedy available to it, either party may terminate this Contract with immediate effect by giving written notice to the other party if:
- (a) the other party fails to pay any amount due under this Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;
  - (b) the other party commits a material breach of any term of this Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
  - (c) 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- (d) the other party commences negotiations with all or any class of any 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 its creditors;
- (e) 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;
- (f) 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);
- (g) the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
- (h) 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;
- (i) 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;
- (j) 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 12.2(c) to clause 12.2(h) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (l) any warranty given by the other party in clause 7 of this Contract is found to be untrue or misleading.

12.3 On termination of this Contract by the Supplier under clause 12.2, all licences granted by the Supplier under this Contract shall terminate immediately.

12.4 On expiry or termination of this Contract otherwise than on termination by the Supplier under clause 12.2, the Supplier shall promptly return all Materials to the Customer, and shall provide to the Customer an electronic copy of the Site (including all content on the Site). The Supplier shall provide such assistance as is reasonably requested by the Customer in transferring the hosting of the Site to the Customer or another service provider, subject to the payment of the Supplier's expenses reasonably incurred.

12.5 On expiry or termination of this Contract, all provisions of this Contract shall cease to have effect, except that any provision which can reasonably be inferred as continuing or is expressly stated to continue shall continue in full force and effect.

### 13. **Change control**

Any request to change the scope of the Services shall be processed in accordance with the Change Control Procedure.

### 14. **Force majeure**

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 6 weeks, the party not affected may terminate this Contract by giving 30 days' written notice to the affected party.

## 15. **Confidentiality**

- 15.1 Each party shall protect the Confidential Information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 15.2 Confidential Information may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information received.
- 15.3 The obligations set out in this clause 15 shall not apply to Confidential Information which the receiving party can demonstrate:
- (a) is or has become publicly known other than through breach of this clause 15; or
  - (b) was in possession of the receiving party prior to disclosure by the other party; or
  - (c) was received by the receiving party from an independent third party who has full right of disclosure; or
  - (d) was independently developed by the receiving party; or
  - (e) was required to be disclosed by a governmental authority, stock exchange or regulatory body, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement.
- 15.4 The obligations of confidentiality in this clause 15 shall not be affected by the expiry or termination of this Contract.

## 16. **Notices**

- 16.1 Any notice given to a party under or in connection with this Contract shall be in writing and shall be:
- (a) 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
  - (b) sent by email to the address specified in the Contract Details (or such other email address as a party shall specify in writing to the other party).
- 16.2 Any notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt;
  - (b) 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;
  - (c) if sent by email, at 9.00 am on the next Business Day after transmission.
- 16.3 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.

## 17. **Assignment & other dealings**

- 17.1 The Supplier may at any time:
- (a) assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Contract; and/or
  - (b) subcontract or delegate in any manner all or any of its obligations under this Contract to any third party.
- 17.2 This Contract is personal to the Customer and the Customer 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 Contract.

18. **Entire agreement**

18.1 This 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.

18.2 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 Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

19. **Third party rights**

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

20. **Variation**

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

21. **Waiver**

No failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22. **Rights and remedies**

Except as expressly provided in this Contract, the rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

23. **Severance**

23.1 If any provision or part-provision of this 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 this Contract.

23.2 If any provision or part-provision of this Contract 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.

24. **Governing law**

This 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 England and Wales.

25. **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 Contract or its subject matter or formation.

## Schedule 1 Definitions and interpretation

### 1. Interpretation

The definitions and rules of interpretation in this clause apply in this Contract.

#### 1.1 Definitions:

<b>Acceptance:</b>	the acceptance or deemed acceptance of the Site by the Customer pursuant to clause 4.
<b>Acceptance Tests:</b>	the tests to be carried out on the Site as set out in clause 4.
<b>Additional Services:</b>	any additional services other than those set out in Contract Details and the Brief agreed between the parties from time to time to be performed by the Supplier for which the Customer will pay the Additional Services Charges.
<b>Additional Services Charges:</b>	the charges payable by the Customer to the Supplier in consideration of the provision of the Additional Services.
<b>Brief:</b>	the brief supplied by the Supplier which shall include the details of the Services to be delivered and the Site Description.
<b>Business Day:</b>	a day other than a Saturday or Sunday or public holiday in England when banks in London are open for business.
<b>Change Control Procedures:</b>	the procedures set out in Schedule 1.
<b>Charges:</b>	the charges in respect of the Services set out in <b>Error! Reference source not found.</b> , together with any charges arising from the Change Control Procedures and any Hosting Fees.
<b>Confidential Information:</b>	all information, whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or during discussions between the parties), where the information is: <ul style="list-style-type: none"><li>(a) identified as confidential at the time of disclosure; or</li><li>(b) ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.</li></ul>
<b>Content:</b>	all text, information, data, software, images, audio or video material in whatever medium or form incorporated on the Site.
<b>Contract:</b>	the contract between the Customer and the Supplier for the supply of the Services in accordance with the Contract Details, these Terms and any Schedules.
<b>Contract Details:</b>	the form described as such and to which these Terms are attached.
<b>Demonstration Content:</b>	any content or materials provided by the Supplier in

	the performance of the Services.
<b>Hosting Fee:</b>	the fee payable (if any) by the Customer to the Supplier in consideration for the Hosting Services.
<b>Hosting Platform:</b>	the platform used by the Supplier to provide the Hosting Services.
<b>Hosting Service:</b>	those web hosting services that the Supplier shall make available to the Customer as a service via the internet, as more particularly described in the Brief.
<b>Intellectual Property Rights:</b>	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.
<b>Materials:</b>	the content provided to the Supplier by the Customer from time to time for incorporation in the Site.
<b>Non-Supplier Defects:</b>	shall have the meaning given in clause 4.4.
<b>Order:</b>	the Customer's order for Services.
<b>Services:</b>	the design and development services and the Hosting Services (if any) to be provided pursuant to this Contract as set out in Contract Details and the Brief or as otherwise agreed in writing between the parties.
<b>Services Start Date:</b>	the day on which the Supplier is to start provision of the Services, as set out in the Contract Details.
<b>Site:</b>	the website identified in the Contract Details.
<b>Site Description:</b>	the description of the Site included in the Brief.
<b>Site Software:</b>	the software for the Site commissioned by the Customer as specified in the Site Description.
<b>Terms:</b>	these terms and conditions set out in clause 1 to clause 25 (inclusive) together with any schedules attached hereto.
<b>Third Party Products:</b>	those third party software products set out in the Brief.
<b>Visitor:</b>	a visitor to the Site.

1.2 Clause and Schedule headings do not affect the interpretation of this Contract.

1.3 References to clauses and Schedules are (unless otherwise provided) references to the clauses and Schedules of this Contract.

- 1.4 In the event and to the extent only of any conflict between the clauses and the Schedules, the clauses shall prevail.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Contract.
- 1.7 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Contract under that statute or statutory provision.
- 1.8 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.
- 1.9 References to **content** include any kind of text, information, image, or audio or video material which can be incorporated in a website for access by a Visitor to that website.
- 1.10 **Writing** or **written** includes email.

## Schedule 2 Change control procedure

1. The Supplier and the Customer shall discuss any change to this Contract (**Change**) proposed by the other and such discussion shall result in either:
  - 1.1 a written request for a Change by the Customer; or
  - 1.2 a written recommendation for a Change by the Supplier,or, if neither the Customer nor the Supplier wishes to submit a request or recommendation, the proposal for the Change will not proceed.
2. Where a written request for a Change is received from the Customer, the Supplier shall, unless otherwise agreed, submit a Change control note (**CCN**) to the Customer within the period agreed between them or, if no such period is agreed, within five Business Days from the date of receipt of such request for a Change, or inform the Customer that the Supplier is not able to comply with such written request for a Change.
3. A written recommendation for a Change by the Supplier shall be submitted as a CCN direct to the Customer at the time of such recommendation.
4. Each CCN shall contain:
  - 4.1 the title of the Change;
  - 4.2 the originator and the date of the request or recommendation for the Change;
  - 4.3 the reason for the Change;
  - 4.4 the full details of the Change, including any specifications and user facilities;
  - 4.5 the price, if any, of or associated with the Change;
  - 4.6 a timetable for implementation, together with any proposals for acceptance of the Change;
  - 4.7 the impact, if any, of the Change on other aspects of this Contract, including:
    - (a) the Charges;
    - (b) the contractual documentation; and
    - (c) staff resources;
  - 4.8 the date of expiry of validity of the CCN (which shall not be less than [NUMBER] Business Days); and
  - 4.9 provision for signature of the CCN by the Customer and the Supplier.
5. For each CCN submitted, the Customer shall, within the period of validity of the CCN as set out in paragraph 4.8 of this Schedule 2:
  - 5.1 allocate a sequential number to the CCN;
  - 5.2 evaluate the CCN, and as appropriate either:
    - (a) request further information; or
    - (b) approve the CCN; or
    - (c) notify the Supplier of the rejection of the CCN; and
  - 5.3 if approved, arrange for two copies of the approved CCN to be signed for and on behalf of the Customer and the Supplier. The signing of the CCN shall signify acceptance of a Change by both the Customer and the Supplier.
6. Once signed by the Customer and the Supplier in accordance with paragraph 5 of this Schedule 2, the Change shall be immediately effective and the Customer and the Supplier shall perform their respective obligations on the basis of the agreed amendment.