

Terms & Conditions

Please read these Terms carefully, as they set out our and your legal rights and obligations in relation to our web development and hosting services.

1. Definitions and interpretation

1.1 In the Agreement: “**Acceptance Criteria**” has the meaning given to it in Clause 5.2; “**Acceptance Period**” means the period of 10 Business Days beginning on date of Delivery of the Website to the Customer; “**Affiliate**” means an entity that Controls, is Controlled by, or is under common Control with the relevant entity; “**Agreement**” means these Web Development Terms and the Specification, and any amendments to them in accordance with these Web Development Terms from time to time; “**Business Day**” means any week day, other than a Saturday or Sunday or a bank or public holiday in England; “**Business Hours**” means between 09:00 and 17:30 London time on a Business Day; “**Charges**” means the amounts payable by the Customer to the Company under or in relation to the Agreement (as set out in the Specification and/or this Agreement); “**Company**” means greensplash ltd, a company incorporated in England and Wales (registration number 14818352) having its registered office at Mor Workspace, Treloggan Lane, Newquay, Cornwall TR7 2FP; “**Company’s CMS**” means any content management system owned by the Company and supplied by the Company pursuant to the Agreement as at the date the same is so supplied; “**Company Works**” means the Works to be supplied by the Company as set out in the Specification and/or otherwise agreed in writing between the parties; “**Confidential Information**” means: (a) any information supplied by one party to the other party (whether supplied in writing, orally or otherwise) marked as “confidential”, described as “confidential” or reasonably understood to be confidential; (b) in the case of each party, the terms (but not the existence) of the Agreement; (c) and the Company Works (excluding the Website Works) shall be the Confidential Information of the Company; “**Control**” means the legal power to control (directly or indirectly) the management of an entity (and “**Controlled**” will be construed accordingly); “**Customer**” means the customer for services under the Agreement as specified in the Specification; “**Customer Works**” means the Works to be provided to the Company by or on behalf of the Customer as set out in the Specification and/or otherwise agreed in writing between the parties; “**Defect**” means a defect, fault, error or bug having a material adverse effect on the appearance, operation or functionality of the Website but excluding any defect, fault, error or bug caused by or arising as a result of: (a) an act or omission of the Customer, or an act or omission of one of the Customer’s employees, agents or sub-contractors; and/or (b) an incompatibility between the Website and any other application, program or software (other than the Customer Works, the Company Works and the Third Party Works); “**Delivery**” shall mean actual delivery, or the making available, of the Website to the Customer (and “**Deliver**” will be construed accordingly); “**Delivery Date**” means the date for Delivery of the Website specified in the Specification; “**Effective Date**” means the date when the Company sends to the Customer its written confirmation that the Agreement is agreed, following the Customer’s acceptance of it; “**Force Majeure Event**” means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, power failures or disruption, industrial disputes affecting any third party, sub-contractor default; changes to the law or requirements or regulations of any governmental authority, act of God, fires, floods, epidemic, disasters, explosions, fires, floods, riots, terrorist attacks, riots, insurrection and wars); “**Intellectual Property Rights**” means all intellectual property rights (including copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, domain names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs) wherever in the world, whether registered or unregistered, any application or right of application for such rights and any right to enforce or claim for infringement of such rights; “**Personal Data**” has the meaning given to it in the General Data Protection Regulation 2018; “**Services**” are the website services set out in the Specification; “**Specification**” means the specification issued by the Company and approved by the Customer detailing the services to be provided by the Company to the Customer and other matters relating to the Agreement, as may be varied from time to time; “**Third Party Works**” means the Works to be supplied by the Company and incorporated in the Website, to the extent that the Intellectual Property Rights in them are owned by a third party (excluding the Customer Works and Company Works), as set out in the Specification and/or otherwise agreed in writing between the parties; “**Term**” means the term of the Agreement; “**Website**” means the website to be developed and/or hosted by the Company for the Customer under the Agreement; “**Website Works**” means Company Works not capable of use for any of the Company’s other customers; “**Works**” means the works, materials, information, data and/or other items (and Intellectual Property Rights in them) which are to be incorporated in the Website as set out in the Specification; and “**Year**” means a period of 365 days (or 366 days if there is a 29 February during the relevant period) starting on 1st April. 1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to: (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and (b) any subordinate legislation made under that statute or statutory provision. 1.3 The Clause headings do not affect the interpretation of the Agreement.

1.4 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement; it follows that a general concept or category utilised in the Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.

1.5 To the extent that any provision of the Specification conflicts with any provision of these Development Terms, these Development Terms shall prevail.

2. Term

The Agreement will come into force on the Effective Date and will continue in force until the Services are completed when it will terminate automatically, unless terminated earlier in accordance with Clause 14.

3. The Services

3.1 In consideration of the Charges, the Company will: (a) provide the Services materially in accordance with the Specification; (b) incorporate the Customer Works, the Company Works and Third Party Works into the Website; (c) keep the Customer informed of the progress of the Website’s development; and (d) where the Company is not to provide such services, provide the Customer with reasonable access to the Website during the Term for the purposes of publishing, operating, backing up and updating the Website.

3.2 The Company will use all reasonable endeavours to perform the Services in accordance with the timetable set out in the Proposal; however, the Company does not guarantee that that timetable will be met and time shall not be of the essence in relation to such timetable.

3.3 The Company will not operate, back up, update and/or host the Website, its contents, or any part of them unless such services form part of the Services or the Company otherwise agrees in writing.

3.4 Unless the Specification states otherwise, any Services to be provided on an annual basis will be provided for each Year (or where part way through a Year, for the remainder of that Year on a pro rata basis where the charge is stated as an annual charge) at the price set out in the Specification. The price of any such services to be provided in subsequent Years may be increased by the Company and will be notified to the Customer.

4. Customer Obligations

4.1 The Customer will provide the Company with: (a) such co-operation as is required by the Company (acting reasonably) to enable the performance by the Company of its obligations under the Agreement; (b) all information and documents required by the Company (acting reasonably) in connection with the provision of the Services; and (c) (without unreasonable withholding or delay) its approval of Company Works and Third-Party Works where requested by the Company. In addition, within such timescale(s) as the Company may reasonably require and in any event promptly after the Effective Date, the Customer will provide (and procure the provision of) any and all Customer Works to the Company in such format as the Company may reasonably require.

4.2 The Customer will be responsible for procuring any third-party co-operation reasonably required by the Company to enable the Company to fulfil its obligations under the Agreement.

5. Delivery and Acceptance

5.1 The Company will use its reasonable endeavours to Deliver the Website to the Customer for acceptance testing on or before the Delivery Date.

5.2 During the Acceptance Period, the Customer will carry out acceptance tests to determine: (a) whether the Website conforms in all material respects with the specification of the Website in the Specification; and (b) whether the Website has any Defects (the “**Acceptance Criteria**”).

5.3 The Company test in current versions of major desktop browsers including those made by Apple (Safari), Google (Chrome), Microsoft (Internet Explorer), & Maxilla Firefox. The Company also test to ensure Microsoft Internet Explorer 9 for windows users get an appropriate, possibly different, experience. If the Customer requires an enhanced design for an older browser, testing will incur additional costs.

5.4 Testing popular small-screen devices is essential in ensuring that a users’ experience of a design is appropriate to the capabilities of the device they are using. The Company test in iOS: Safari, Google Chrome Android 4.x: Google Chrome and Firefox. The Company does not test in Blackberry, opera Mini/Mobile, Windows Phone or other mobile browsers as standard. The Customer can request additional testing for an additional cost.

5.5 If the Website meets the Acceptance Criteria, the Customer will send to the Company a written notice during the Acceptance Period confirming acceptance of the Website.

5.6 If the Website does not meet the Acceptance Criteria: (a) the Customer will send to the Company a written notice during the Acceptance Period setting out in detail the respect(s) in which the Website does not meet the Acceptance Criteria; and (b) the Company will have a further remedial period (of 20 Business Days) to modify the Website so that it meets the Acceptance Criteria.

5.7 The Website will be deemed to have been accepted by the Customer and meeting the Acceptance Criteria if: (a) the Customer does not give any notice to the Company under either Clause 5.5 or Clause 5.6 during the Acceptance Period; or (b) the Customer publishes the Website or uses the Website for any purpose other than development and/or testing.

5.8 To the extent that Company Works approved by the Customer differ to the Specification, such Customer Works shall be deemed to vary the Specification to such extent.

5.9 The Company shall be entitled to charge the Customer in addition in accordance with its then current price list for any modifications or changes to Company Works previously approved by the Customer (whether to ensure that the Acceptance Criteria are met or otherwise) or which are not in accordance with the Specification.

6. Third Party Works and Company Works

6.1 Third Party Works will be licensed to the Customer under the relevant licensor’s standard terms and conditions for online use or on sub-licence terms notified by the Company to the Customer.

6.2 Any licence fees for Third Party Works or other licence fees are included in the Charges for the development and set up of the Website (unless the Specification states or the parties agree otherwise).

6.3 Subject to Clause 9, the Company grants to the Customer a non-exclusive licence to use the Company Works for the purposes of operating and updating the Website (but not otherwise) (the “**Purpose**”) and on such other licence terms as the Company may notify to the Customer. There shall be no right to sub-licence.

6.4 Any licence fees for Company Works are included in the Charges for the development and set up of the Website (unless the Specification states or the parties agree otherwise).

6.5 The Company does not guarantee or warrant that any Third-Party Works or Company Works suggested for use or incorporated in the Website will be free from errors, bugs, faults and/or defects or available without interruption.

6.6 The Customer will keep confidential any and all passwords and login details provided to the Customer for Third Party Works and/or Company Works. The Customer will not disclose such details to any person, except such of the Customer’s employees, agents and sub-contractors who need to know in order to fulfil their obligations to the Customer who will only use such details for the purposes permitted by the relevant licence.

6.7 Where any repeat licence fees are payable for use of any part of the Works as part of the Charges, this will be set out in the Specification, and such licence fees will be payable at the specified frequency to maintain the right to use of the relevant parts of the Works. If such repeat licence fees are not paid at any time (whether during this Agreement or after termination) then the Customer shall cease to be entitled to continue the use of the relevant parts of the Works.

7. Customer Works

7.1 Subject to Clause 10.2 the Customer will have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Works approved by the Customer.

7.2 The Customer will at all times have and maintain all necessary consents, permissions and authorisations for the Company to use the Customer Works in the provision of the Services and for the Customer Works to feature in the Website, as contemplated by this Agreement. Accordingly, the Customer will ensure that such use of the Customer Works do not infringe any applicable laws, regulations or third-party rights.

7.3 Subject to Clause 10.2 the Customer will indemnify and keep indemnified the Company from and against any and all damages, losses, costs, expenses (including legal expenses), claims, legal proceedings and other liabilities arising as a result of the Company’s use of the Customer Works approved by the Customer in the provision of the Services and the incorporation and use of the Customer Works in the Website.

8. Charges and Payment

8.1 Unless the Specification states otherwise, the Company will be entitled to issue invoices for Charges to the Customer for website development Services as follows: 50% of the Charges at any time after the date on which the Customer signs these Development Terms, 25% of the Charges once the website has been developed and is ready to receive content and 25% of the Charges at any time after the Customer accepts or is deemed to accept the Website. Payment of this final 25% invoice will be due in 7 days from date of the invoice. Should work be incomplete 6 months after it’s commencement date due to no fault of the company (such as but not limited to awaiting responses and / or content from the customer), the company reserves the right to invoice for the full remaining project value. For Services to be provided on an annual basis the Company will be entitled to issue an invoice for the full amount up to 30 days before the start of the relevant Year (or part Year where the Works are accepted or deemed accepted by the Customer part way through a Year), at any time after the date 30 days before the end of the preceding Year. For any other Services the Company will be entitled to issue invoices for Charges to the Customer at any time as the Services progress for the Services carried out prior to the date of invoice.

8.2 The Customer will pay the Charges to the Company within 30 days of the date of issue of an invoice issued in accordance with Clause 8.1, with the exception of the final 25% invoice for which payment is due within 7 days of the invoice date.

8.3 All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise.

8.4 Charges must be paid by bank transfer or by cheque (using such payment details as are notified by the Company to the Customer from time to time).

8.5 If the Customer does not pay any amount properly due to the Company under or in connection with the Agreement, the Company may: (a) charge the Customer interest on the overdue amount at the rate of 4% per year above the base rate of Natwest Bank from time to time (which interest will accrue daily until the date of actual payment and will be compounded quarterly) or claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998 (whichever is higher); and (b) suspend the Services or any part of them in respect of which any amount(s) is outstanding.

9. Intellectual Property Rights

9.1 All Intellectual Property Rights in the Website (excluding the Customer Works and the Third Party Works) and Company Works will as between the parties be the sole property of the Company, save that the Company hereby agrees to assign to the Customer all Website Works upon payment in full in cleared funds of all Charges due in respect of the development and set up of the Website.

9.2 Except as provided in the Agreement, the Customer will not acquire any right, title or interest in or to the Company Works.

9.3 Subject to payment in full in cleared funds of all Charges due in respect of the development and set up of the Website, the Company

undertakes not to design or create (or be involved in the design or creation) of any website, web application or web page the look and feel of which is: (a) identical to the look and feel of the Website Works; or (b) substantially similar to the look and feel of the Website Works.

9.4 The Company waives (and will ensure that its employees and subcontractors waive) any moral rights they may have in the Website Works arising under Chapter 4 of the Copyright, Designs and Patents Act 1988 and, so far as is legally possible, any broadly equivalent rights anywhere in the world.

10 Warranties

10.1 The Customer warrants to the Company that it has the legal right and authority to enter into and perform its obligations under the Agreement.

10.2 The Company warrants to the Customer: (a) that it has the legal right and authority to enter into and perform its obligations under the Agreement; (b) that it will perform its obligations under the Agreement with reasonable care and skill; (c) that the Website (except for the Customer Works and Third Party Works) and the Company Works as supplied by the Company will not infringe the Intellectual Property Rights of any third party; and (d) that the Website will continue to operate without any Defects for a period of 3 months from the date of acceptance of the Website (and if the Website does not so operate, the Company will, for no additional charge, carry out any work necessary in order to ensure that the Website operates without any Defects during this period).

10.3 The Customer acknowledges that the Company has developed the Website to work with the web browser technology and technical configuration specified in the Specification and that the Company does not warrant that the Works, the Website and/or their contents or any part of them (including the Company's CMS) will work with any other web browser technology or technical configuration.

10.4 The Customer further acknowledges that the Company does not (and does not purport to) provide any legal advice under the Agreement or in relation to the Website or its content or use. Accordingly, the Company does not provide any guarantee or warranty that the Website or its content or use will not give rise to any civil or criminal legal liability on the part of the Customer or any other person.

10.5 The Customer acknowledges that it does not rely on any warranty and/or representation which is not expressly set out in this Agreement. All warranties, terms, conditions and duties (whether relating to the subject matter or the Agreement or fitness, quality or adequacy of any of the Services, Company Works or Third-Party Works) are excluded from the Agreement or any related contract to the maximum extent permitted by law.

11 Liability

11.1 Nothing in the Agreement will exclude or limit the liability of either party: (a) for death or personal injury caused by that party's negligence; (b) for fraud or fraudulent misrepresentation on the part of that party; (c) for any other liability which may not be excluded or limited under applicable law; or (d) under any indemnity provided in the Agreement.

11.2 The Company shall have no liability for: (a) delayed or non-performance of its obligations under the Agreement to the extent caused by the Customer's failure to comply with its obligations under the Agreement and/or the acts or omissions of any third party engaged by the Customer; (b) any Defect or other defect which has been caused by the Customer or any of its employees, agents or representatives to the extent so caused or contributed; and (c) loss or damage caused by the continued use of the Website after a Defect or use of the Company Works after a defect has become apparent or suspected or should reasonably have become apparent.

11.3 The Company shall have no liability for loss or damage caused or contributed to by any Third-Party Works or Customer Works.

11.4 The Company shall have no liability to the extent that the Customer is covered by any policy or insurance and the Customer shall ensure that its insurers waive any and all rights of subrogation they may have against the Company.

11.5 Neither party will be liable for any: (i) loss of profits, income or anticipated savings, (ii) loss or corruption of any data, database or software, (iii) reputational damage or damage to goodwill; (iv) loss of business, contracts and/or any commercial opportunity, or (v) indirect, special or consequential loss or damage; except nothing shall limit the Company's ability to recover the Charges plus interest and costs.

11.6 Neither party will be liable for any losses arising out of a Force Majeure Event.

11.7 The Company's liability in relation to any claim or series of related claims will in no circumstances exceed the Charges paid by the Customer for the Services which are the subject of the claim.

11.8 Each of the limitations and/or exclusions in the Agreement shall be deemed to be repeated and apply as a separate provision for each of: (a) liability in contract (including fundamental breach); (b) liability in tort (including negligence); (c) liability for breach of statutory duty; and (d) liability for breach of Common Law and/or under any other legal basis; except that the Clauses above placing financial caps on a party's liability shall apply once in respect of all of the said types of liability.

11.2. Data Protection

12.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Company under the Agreement. The Customer will indemnify and keep indemnified the Company from and against any and all damages, losses, costs, expenses (including legal expenses), claims, legal proceedings and other liabilities suffered and/or incurred by the Company arising as a result of the Customer's breach of this Clause 12.1.

The Company is committed to protecting the Customer's personal data in line with the Company's Privacy Policy (available at <https://www.greensplashdesign.com/privacy-policy/>).

11.3. Confidentiality and Publicity

13.1 Each party will keep confidential the Confidential Information of the other party and will not disclose that Confidential Information except as expressly permitted by this Clause 13. Each party will not

use the Confidential Information of the other party except in the proper performance of the Agreement.

13.2 Each party will protect the confidentiality of the Confidential Information of the other party using at no less stringent security measures than that party would use to protect its own Confidential Information.

13.3 The Confidential Information of a party may be disclosed by the other party to that other party's employees and professional advisers on a need-to-know basis.

13.4 These obligations of confidentiality will not apply to Confidential Information that: (a) has been published in printed publications and is generally available to the public (other than as a result of a breach of the Agreement); (b) is known to and at the free disposal of the receiving party, and can be shown by documentary evidence by the receiving party to have been known to it and at its free disposal, before disclosure by the other party; or (c) is required to be disclosed by law, or by an order (binding upon the relevant party) of a governmental authority, a regulatory body or a stock exchange.

13.5 Subject to Clause 9.5, neither party will make any public disclosure relating to the subject matter of the Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the other party, not to be unreasonably withheld or delayed.

13.6 Each of the parties will indemnify and keep indemnified the other party for and against any and all damages, losses, costs, expenses (including legal expenses), claims, legal proceedings and other liabilities suffered and/or incurred by the other party arising as a result of that party's breach of this Clause 13.

14. Termination

14.1 Either party may terminate the Agreement immediately by giving written notice to the other party if the other party: (a) commits any material breach of any term of the Agreement, and: (i) the breach is not remediable; or (ii) the breach is remediable, but other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; (b) persistently breaches the terms of the Agreement (irrespective of whether such breaches collectively constitute a material breach); or (c) fails to make any payment when due.

14.2 Either party may terminate the Agreement immediately by giving written notice to the other party if: (a) the other party: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors; (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party; (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.

14.3 Either party may terminate the Agreement in relation to the provision of any Services provided on an annual basis by serving not less than 90 days written notice to expire on the last day of the then current Year. If any such notice of termination is not given, then the Agreement shall automatically be extended in relation to such annual Services for another Year.

14.4 The Company may terminate the licence granted under Clause 6.3 immediately upon notice if the Company Works (excluding the Website Works) are used for any purpose other than the Purpose or the Customer commits any of the acts referred to in Clause 14.1 or suffers any of the events referred to in Clause 14.2.

15. Effects of Termination

15.1 Upon termination all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 6.3, 7, 8.5, 9, 10, 11, 12, 13, 14.4, 15, and 16.3 to 16.14.

15.2 Termination of the Agreement will not affect either party's accrued rights (including the Company's accrued rights invoice for and to be paid the Charges) as at the date of termination.

15.3 If the Agreement is terminated by the Customer under Clause 14.1 or 14.2 (but not in any other case): (a) the Company will promptly provide to the Customer an electronic copy of the Website (which the Customer acknowledges and agrees might not work with any other web browser technology or technical configuration to that specified in the Specification); (b) the Company will provide such assistance as is reasonably requested by the Customer to transfer the hosting of the Website to the Customer or another service provider, subject to payment of the Company's reasonable charges and expenses; and (c) the Customer will be entitled to a refund of any Charges paid by the Customer to the Company in respect of any Services which were to be performed after the date of termination, and will be released from any obligation to pay such Charges to the Company (such amount to be calculated by the Company using any reasonable methodology).

15.4 Save as provided in Clause 15.3(c), the Customer will not be entitled to any refund of Charges on termination and will not be released from any obligation to pay Charges to the Company.

15.5 Upon termination of the Agreement by the Company under Clause 14.1 and 14.2 (but not otherwise) or termination of the licence granted to the Customer under Clause 6.3, the Customer shall immediately cease to use the Company Works (except for the Website Works assigned to the Customer under Clause 9.1) and remove them from the Website.

15.6 If the Agreement is terminated for whatever reason, upon request each party will immediately return to the other party any Confidential Information of the other party which is in its possession and/or control or, at the other party's option, permanently destroy or erase the same (as appropriate).

15.7 Notwithstanding Clauses 14.4, 15.5 and 15.6, the Customer shall be entitled to retain within the Website and continue to use after termination of the Agreement (on condition that the Customer does so strictly in accordance with the Agreement) the Company's CMS.

16. General

16.1 Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be delivered personally, sent by first class post, or sent by email, for the attention of the relevant person, and to the relevant address, or email address given in this Clause (or as notified by one party to the other in writing from time to time). The Company: *Greensplash Design Ltd, Mor Workspace, Trelogan Lane, Newquay, Cornwall TR7 2FP, email: hello@greensplashdesign.com*. The Customer: the contact and address specified in the Specification.

16.2 A notice will be deemed to have been received at the time set out in this Clause 16.2 (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below): (a) where the notice is delivered personally, at the time of delivery; (b) where the notice sent by first class post, 48 hours after posting; and (c) where the notice sent by email, at the time of the transmission (providing the sending party retains written evidence of the transmission).

16.3 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.

16.4 If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).

16.5 Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.

16.6 The Customer agrees to indemnify and keep indemnified the Company from and against any and all damages, losses, costs, expenses (including legal expenses), claims, legal proceedings and other liabilities suffered and/or incurred by the Company arising as a result of the breach of contract, any tortious act and/or omission and/or any breach of statutory duty by the Customer.

16.7 The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

16.8 Each party may freely assign its rights and obligations under the Agreement without the other party's consent to any Affiliate of the assigning party or any successor to all or substantial part of the business of the assigning party from time to time. Save as expressly provided in Clauses 16.8 and 16.9 or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any rights or obligations under the Agreement.

16.9 The Company may subcontract any of its obligations under the Agreement to any third party.

16.10 Neither party will, without the other party's prior written consent, either during the term of the Agreement or within 6 months after the date of effective termination of the Agreement, engage, employ, or otherwise solicit for employment any employee or contractor of the other party who has been involved in the performance of the Agreement.

16.11 Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil their obligations under the Agreement.

16.12 The Agreement is made for the benefit of the parties and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation, or settlement under or relating to the Agreement are not subject to the consent of any third party.

16.13 The Agreement constitutes the entire agreement between and understanding of the parties in relation to the subject matter of the Agreement, and supersedes any and all previous agreements, arrangements and understandings between the parties relating to the subject matter of the Agreement and is not affected by any other promise, representation, warranty, usage, custom or course of dealing. Subject to Clause 11.1, each party acknowledges that no representations or promises not expressly contained in the Agreement have been made by or on behalf of the other party or have induced them to enter into this Agreement.

16.14 The Agreement will be governed by and construed in accordance with the laws of England and Wales and the courts of England and Wales will have non-exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

The parties agree to and accept these Terms by commissioning the Services and/or making payment for such Services.