

**ANDIGITAL LIMITED**

**CONTRACT DETAILS**

<b>CLIENT</b>	[insert full legal entity name] incorporated and registered in England and Wales with company number [insert company number] whose registered office is at [insert address]
<b>CLIENT ADDRESS FOR NOTICES</b>	[insert e-mail address(es)]
<b>EFFECTIVE DATE</b>	[insert date of signature or agreed start date]

Client hereby acknowledges and accepts the Terms of Business, and the Parties will execute each Statement of Work separately.

For and on behalf of [insert client name]:

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

For and on behalf of ANDigital Limited:

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **TERMS OF BUSINESS**

### **1. Interpretation**

The definitions and rules of interpretation in this clause apply in these Terms of Business.

#### 1.1 Definitions:

- 1 **Affiliate:** in relation to the Parties any company, partnership or other entity which from time to time directly or indirectly Controls, is Controlled by or is under common Control with that Party, including any subsidiary or holding company of that Party (as those expressions are defined in sections 1159 and 1162 of the Companies Act 2006 (as amended)). "Control" (and its cognates) means the possession, directly or indirectly, of the power to direct or cause the management and policies of a person, whether through the ownership of shares, by contract, or otherwise.
- 2 **Agile Methodology:** an iterative and incremental approach to software design and systems development.
- 3 **Confidential Information:** has the meaning given in clause 8 (Confidentiality).
- 4 **Contract:** these Terms of Business and a Statement of Work.
- 5 **Contract Details:** the commercial details which are attached to these Terms of Business.
- 6 **Client:** the company purchasing Services from the Supplier, full details are set out in the **Contract Details**. The term **Client** may include Client's Affiliates from time to time.
- 7 **Deliverables:** any output of the Services identified as such in a Statement of Work.
- 8 **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, trade names, rights in domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 9 **Party and Parties:** Supplier and Client may be referred to individually as a 'Party' and collectively as the 'Parties'.
- 10 **Pre-existing Materials:** materials which existed before the commencement of the Services.
- 11 **Professional:** an individual working for or on-behalf of the Supplier, providing the Services to the Client.

- 12 **Services:** the services to be provided by the Supplier under the Contract.
- 13 **Statement of Work:** a statement of work executed by the Parties, which sets out the details of the Services to be provided by Supplier pursuant to these Terms of Business.
- 14 **Supplier:** ANDigital Limited incorporated and registered in England and Wales with company number 8761455 whose registered office is at 3 Concorde Park, Concorde Road, Maidenhead, Berkshire, England, SL6 4BY.
- 15 **Third Party Products:** products and services developed and owned by third parties (i.e. parties other than Supplier and its Affiliates) and may include, for example, open-source software componentry, third-party 'generative AI' tools and other 'Software as a Service' products.
- 16 **VAT:** value added tax imposed by the Value Added Tax Act 1994 or any similar tax chargeable in the UK or elsewhere.
- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7 A reference to **writing** or **written** includes e-mail.
- 1.8 Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. **Contract Construction**

- 2.1 The Contract consists of these Terms of Business and an executed Statement of Work. The Client accepts the Contract by executing the Contract Details. Both the Supplier and the Client will execute a Statement of Work. A Client Affiliate may execute a Statement of Work, and will be treated as the Client for the purposes of that Statement of Work.
- 2.2 If the Supplier commences the provision of Services without executing the Contract Details, or any Client master or framework agreement (**Client Agreement**), these Terms of Business will apply until the Client Agreement or another form of agreement

which is agreed between the Parties is signed. THE CLIENT ACCEPTS THESE TERMS OF BUSINESS ON COMMENCEMENT OF THE SERVICES.

- 2.3 Terms defined in the Statement of Work shall have the same meaning as the terms in these Terms of Business. In the event of conflict between the terms of these Terms of Business and a Statement of Work, the Statement of Work shall prevail in relation to the conflicting term only.
- 2.4 The Client may issue a purchase order. The terms of a purchase order will not be incorporated into the Contract, and the Client's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order shall not govern the Contract. The Supplier may issue invoices without a purchase order in place.
- 2.5 Subject to clause 2.2, the Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
- 2.6 These Terms of Business prevail over any specification, or any term which is implied by law, trade custom, practice or course of dealing.
- 2.7 Each Party acknowledges that, in entering into these Terms of Business, it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms of Business.
- 2.8 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms of Business.
- 2.9 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on the Supplier unless in writing and signed by a duly authorised representative of the Supplier.

### **3. Services**

- 3.1 The Supplier will provide the Services described in the Statement of Work in accordance with and subject to the provisions of the Contract.
- 3.2 Either Party may request changes to the scope of the Services (**Change to Services**). For the avoidance of doubt, changes as a result of Agile Methodology do not constitute a Change to Services. Requests for Changes to Services must be supported by sufficient detail to enable the other Party to assess the impact of the requested change on the cost, timetable and any other relevant aspects of delivering the Services (the **Change Order**). Both Parties agree to work together to consider and, if appropriate, agree to any Change Orders (provided that the Supplier is under no obligation to do so, but must not unreasonably withhold or delay its consent to any requested change). Until a Change Order is agreed in writing both Parties will

continue to act in accordance with the Services which were agreed in the Contract. Each Party will name at least one representative who will be responsible for managing issues relating to the day-to-day performance of the Services, including meeting at regular intervals to discuss and minute the progress of the Services. The representatives are named in the Statement of Work.

#### **4. Supplier's Obligations**

- 4.1 The Supplier shall use reasonable endeavours to manage and complete the Services, in accordance with any timetable referred to in the Statement of Work or otherwise specified by the Client and Supplier working collaboratively.
- 4.2 The Supplier shall use reasonable endeavours to meet the performance dates specified in the Statement of Work, but any such dates shall be estimates only and time shall not be of the essence of the Contract.
- 4.3 The Supplier uses Agile Methodology and aims to provide the Services in accordance with this management framework. The Supplier will detail its Agile Methodology in the Statement of Work.
- 4.4 The Supplier may use or incorporate Third Party Products in the Services and Deliverables.
- 4.5 The Supplier will notify the Client in advance when any of its Professionals have holiday, training or other commitments, and will use all reasonable efforts to minimise the impact of such commitments on the Services.
- 4.6 While the Supplier's Professionals are performing Services on the Client's site, the Supplier will ensure that such Professionals comply with the Client's reasonable security procedures and such other policies that have been notified to the Supplier in advance. The Client shall, if required to do so, promptly reimburse the Supplier for any out of pocket expenses incurred in complying with such procedures and policies.

#### **5. Client's Obligations**

- 5.1 The Supplier's delivery of the Services and the fees charged are dependent on (i) the Client undertaking the Client responsibilities as set out in the Statement of Work; (ii) the accuracy of the assumptions as set out in the Statement of Work; (iii) the Client performing its obligations under the Contract; (iv) the Client providing the Supplier with such information as the Supplier shall reasonably request to enable it to perform its obligations under the Contract; and (v) the Client providing timely decisions and obtaining required management approvals.
- 5.2 The Client will provide the Supplier and its personnel with full and prompt access at all reasonable times to its premises, and to any Client personnel and advisors who are associated with the Services.

- 5.3 The Client will provide or arrange for the Supplier to have full access to data, information and Third Party Products as it may reasonably require in order to perform the Services. In addition, the Client agrees to keep the Supplier promptly informed of any material developments or proposals in relation to the business or operations of the Client where these may have an effect upon the Services.
- 5.4 The Supplier will be entitled to rely on all the Client's recommendations, decisions and approvals given in connection with the Services. Further, the Client understands that the Supplier is relying on the information provided by or on behalf of the Client and the Client represents that such information is or will be true, accurate and complete. The Supplier will not be liable for any loss, damage or expense arising from the Client's failure or delay in supplying any information or materials or any inaccuracy or other deficiency in such information or materials.
- 5.5 The Client and the Supplier will each be responsible for ensuring that their respective personnel involved with the Services have the appropriate skills and experience. If any of the Supplier's or the Client's personnel fail to perform as required additional or replacement personnel will be provided as the other Party may reasonably request.
- 5.6 Where the Supplier's Professionals are required to work on Client premises the Client will ensure that such Professionals are provided without charge with a suitable office environment and facilities including admin support, IT and network infrastructure access and support.
- 5.7 Where the Client is using third parties to provide information, materials or support for the Services, or is employing other suppliers whose work may affect the Supplier's ability to perform the Services, the Client will be responsible for the management of such persons and their performance, including the timeliness and quality of their input and work.
- 5.8 The Supplier's Professionals will report directly to a nominated Client representative, who will be responsible for providing appropriate management, supervision and quality assurance on their work. Accordingly, the Supplier's Professionals will not be subject to the Supplier's own quality control procedures other than through coaching, professional and personal support from the Supplier's service delivery and coaching staff.

## **6. Charges and Payment**

- 6.1 The Services may be provided on a "Time and Materials" or on a "Fixed Price" fee basis. The Statement of Work will state the applicable fee rates for Time and Materials charging or the applicable Fixed Price. Where the Statement of Work does not expressly state which charging basis applies, the Time and Materials charging will apply.
- 6.2 Where the Services are provided on a Time-and-Materials basis:

- (a) the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates as amended from time to time and as agreed in the relevant Statement of Work;
  - (b) the Supplier's standard daily fee rates are calculated on the basis of a 7.5 hour day worked between 09.00 and 17.30 on weekdays (excluding weekends and public holidays). Where weekend working or being on call is required, additional hours will be charged at a rate of 2.0 x agreed rate / 7.5 standard hours. The charges will also include time spent by personnel travelling which is in excess of their normal work journey time.
- 6.3 Where the Services are provided on a Fixed Price basis:
  - (a) if the Supplier incurs extra costs or the scope of the Services is increased by any delay, variation, interruption or suspension of work arising either from (i) the default or (ii) the instructions of the Client and/or those persons for whom the Client is responsible, in each case provided that the Supplier will advise the Client of such extra costs or increased scope as soon as reasonably practicable, then the Supplier may increase the Fixed Price to reflect such extra costs properly incurred or increased scope and the Client will pay the increased Fixed Price; and
  - (b) if the Services are subject to a Change Order, the Parties will agree a new Fixed Price as part of that Change Order.
- 6.4 Any estimate given by the Supplier of any charge or fees, whether for planning or any other purpose, is given in good faith but will not be binding or constitute a fixed estimate unless otherwise agreed in writing. For the avoidance of doubt, a Fixed Price is not an estimate and is subject to the conditions for such pricing in the applicable Statement of Work.
- 6.5 All charges are exclusive of out of pocket expenses unless the Statement of Work states otherwise. The Client agrees to pay expenses incurred on report production, travel and subsistence, and on goods and services purchased on the Client's behalf, which will be billed at cost. Any special expense arrangements will be agreed and set out in the Statement of Work.
- 6.6 All payments made by the Client under the Contract do not include any taxes (including consumption taxes (such as GST or VAT), duties, levies, fees or similar charges or surcharges of any jurisdiction that may be assessed or imposed in connection with the transactions contemplated by the Contract (**Taxes**). Client shall be responsible for the payment of such Taxes, and directly pay any such Taxes assessed against it.
- 6.7 Invoices will be issued in accordance with any payment plan set out in the Statement of Work, or otherwise in arrears on the third Friday of the month. Unless the Statement of Work states otherwise, all payments will be in Pounds Sterling. All invoices will be due for payment within 30 days of the date of the relevant invoice. Time for payment shall be of the essence of the Contract.

- 6.8 If the Client disputes any portion of an invoice it shall notify the Supplier within 7 days of receipt of the disputed invoice and pay the undisputed portion of that invoice. Should any invoice remain unpaid for more than 7 days from the due date, the Supplier reserves the right, without prejudice to any other right or remedy, to suspend the provision of the Services or any part and/or to charge interest on a day to day basis on amounts overdue until payment in full is received at a rate of 4% above the annual base rate of the Bank of England from time to time.
- 6.9 All amounts due under the Contract shall be paid by the Client to the Supplier in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). The Supplier may, without prejudice to any other rights it may have, set off any liability of the Client to the Supplier against any liability of the Supplier to the Client.
- 6.10 The Supplier reserves the right to deliver Services by instalments and render a separate invoice in respect of each such instalment. Any delay in the provision of such Services, or failure to deliver any further instalment or instalments, shall not entitle the Client to reject the Services of any other instalment or to withhold payment in respect of any other instalment previously delivered.
- 6.11 The Supplier's rates shall be subject to an annual adjustment on the 1<sup>st</sup> January of each year of the Contract. The increase shall be a maximum of 2% plus the percentage change in the Consumer Price Index (CPI) over the most recent twelve (12) months for which published data is available.
- 6.12 The Supplier may assign to its banker accounts receivable, including those arising from the sale of Services supplied by the Supplier to the Client.

## **7. Intellectual Property Rights**

- 7.1 The Supplier shall own and retain all ownership and Intellectual Property Rights in all its Pre-existing Materials that it may use in connection with this Contract, including materials which may be developed during the provision of the Services, but do not form part of a Deliverable. All ownership and Intellectual Property Rights in the Third Party Products shall be retained by the relevant third party owner.
- 7.2 Subject to payment of the Fees pursuant to clause 6 and clause 7.1, the Supplier hereby assigns to the Client all of its Intellectual Property Rights, in each case whether registered or unregistered in the Deliverables and in all other reports, materials, documentation, software, system interfaces, templates, methodologies and processes, and ideas, concepts and techniques that the Supplier may develop under this Contract.
- 7.3 The Client grants the Supplier and its sub-contractors a revocable, non-transferable, non-exclusive licence during the term of the Contract to make use of the Client's Intellectual Property Rights and Confidential Information and other property solely for the purpose of providing the Services and performing its obligations under the Statement of Work.

7.4 Nothing in the Contract will prevent or restrict the Supplier from providing services to other clients which are the same or similar to the Services or using for any purpose any techniques, ideas, concepts or know-how gained or arising from the performance of the Services, subject to the obligations of confidentiality set out in clause 8.

## **8. Confidentiality**

8.1 **Confidential Information** means all information that is by its nature confidential, or is designated as such (whether in writing or orally) or ought reasonably to be regarded as such including the terms of the Contract which is disclosed by a Party or its Representatives (as defined below) to the other Party and that Party's Representatives whether before or after the date of the Contract.

**Representatives** means, in relation to a Party, its employees, officers, contractors, subcontractors, representatives and advisers.

8.2 Subject to clause 8.4, each Party agrees where it is in possession of the other Party's Confidential Information, it shall (i) keep it confidential; (ii) use it only in connection with performing its obligations and/or exercising its rights under the Contract; and (iii) not disclose it to any other person without the other's prior written consent.

8.3 The undertaking by the Supplier under clause 8.2 applies to information about or relating specifically to the Client comprised in the Deliverables (which shall be deemed as the Confidential Information of the Client). Subject to clause 8.2, the Supplier shall use Confidential Information of the Client solely for the purpose of performing the Services under the Contract.

8.4 The provisions of this clause shall not apply to any Confidential Information that:

- (a) is or becomes generally available to the public (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this clause);
- (b) was available to the receiving Party on a non-confidential basis before disclosure by the disclosing Party;
- (c) was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party;
- (d) the Parties agree in writing is not confidential or may be disclosed; or
- (e) is developed by or for the receiving party independently of the information disclosed by the disclosing Party.

8.5 A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information, provided that:

- (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and

- (b) at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause.
- 8.6 A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 8.6, it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- 8.7 On termination or expiry of the Contract, each Party shall:
  - (a) destroy or return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information; and
  - (b) erase all the other Party's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically and legally practicable).
- 8.8 Except as expressly stated in the Contract, neither Party makes any express or implied warranty or representation concerning its Confidential Information.
- 8.9 The provisions of this clause 8 shall survive for a period of five years from termination or expiry of the Contract.

## **9. Warranty and Disclaimer**

- 9.1 The Supplier warrants that the Services will be performed with reasonable care in a diligent and competent manner in accordance with good industry practices. The Supplier will, as the Client's sole and exclusive remedy, re-perform any work which is not in compliance with this warranty, provided that the Client gives the Supplier written notice of the non-compliance within 14 days of the relevant Services being performed or delivered.
- 9.2 The Supplier does not warrant and makes no commitment in relation to any Third Party Products. The Client's sole and exclusive rights and remedies with respect to claims arising out of or relating to any Third Party Product will be against the third party and not against the Supplier.
- 9.3 The representations, warranties, terms and conditions set out in the Contract are the Parties' only representations, warranties, terms, conditions and other commitments relating to the Services and are made expressly in place of and to the exclusion (to the fullest extent permitted by law) of all other representations, warranties, terms, conditions and other commitments, express or implied, by statute or otherwise, including without limitation any implied warranties, terms, conditions or other commitments as to performance, output, non-infringement fitness for a particular

purpose, merchantability, satisfactory quality, compliance with law or otherwise and are subject to the limitations on liability set out herein.

- 9.4 All surveys, forecasts, projections and recommendations made in any report, presentation or other materials provided by the Supplier in connection with the Services are made by the Supplier in good faith and on the basis of the information supplied to the Supplier at the time. The Supplier does not guarantee and takes no responsibility for their achievement or continuing applicability. The actual outcome will depend on future events and circumstances and matters over which the Supplier has no control, including the actions of the Client's management and staff. It will be the responsibility of the Client's management to make implementation decisions, if any, and to determine further courses of action with respect to any matters addressed in the Services provided by the Supplier.

## **10. Indemnification**

- 10.1 The Supplier shall indemnify and defend the Client against any third party claim asserting that the Deliverable, as and when made available to the Client by the Supplier, and when properly used for the purpose and in the manner authorised and agreed by the Contract, infringes on any third party Intellectual Property Rights. The Supplier's obligation under this clause 10.1 is contingent upon the Client (i) promptly giving notice to the Supplier after the date that the Client first becomes aware of the infringement claim; (ii) allowing the Supplier to have sole control of the defence and settlement of the claim; (iii) reasonable cooperating with the Supplier during defence and settlement efforts; and (iv) not making any admission, concession, consent, judgment or settlement of the infringement claim unless otherwise agreed by the Supplier in writing. This indemnity is the Client's sole remedy for a claim of infringement or misappropriation hereunder.
- 10.2 The Client agrees to indemnify and hold harmless the Supplier and each of, its directors and employees against all claims and proceedings brought by any third party and all losses, damages, costs and expenses relating thereto, whatsoever and howsoever caused, which the Supplier, its directors and employees, or any of them, may suffer arising from, or in connection with, the provision of the Services and/or Deliverables.

## **11. Limitation of Liability**

- 11.1 The following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and subcontractors) to the Client in respect of:
- (a) any breach of the Contract however arising;
  - (b) any use made by the Client of the Services, the Deliverables or any part of them; and
  - (c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

- 11.2 All warranties, conditions and other terms implied by statute or common law are, to the greatest extent permitted by law, excluded from the Contract.
- 11.3 Nothing in these conditions excludes the liability of either Party:
- (a) for death or personal injury caused by the Supplier's negligence; or
  - (b) for fraud or fraudulent misrepresentation.
- 11.4 Subject to 11.2 and 11.3, neither Party (nor any of its Affiliates providing or receiving Services) shall in any circumstances be liable, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation (whether innocent or negligent), restitution or otherwise for loss of profit, goodwill, business opportunity or anticipated savings, loss of or corruption to data, loss of revenues or wasted management or staff time; or incidental, special punitive, exemplary, indirect or consequential loss or damage; (together **Excluded Losses**) which the other Party may suffer, howsoever caused and whether or not the causing Party knew or ought to have known, that the Excluded Losses would be likely to be suffered by the other Party.
- 11.5 Each Party's total aggregate liability (in the Supplier's case, to the Client and its Affiliates in aggregate) in contract, tort (including negligence), breach of statutory duty, misrepresentation (whether innocent or negligent), restitution, indemnity or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the fees paid by the Client to the Supplier in the 12 month period immediately preceding the date of the event that is the basis for the claim.

## **12. Settlement of Disputes**

- 12.1 In the event of a dispute or alleged breach of the Contract (the **Dispute**), the Parties will first attempt to resolve the Dispute internally by escalating it through management (in accordance with any procedure which is set out in the Statement of Work or otherwise agreed in writing). If the Parties are unable to reach an agreement within 30 days of being notified in writing of the Dispute, the Parties agree that they shall use a mutually acceptable alternative dispute resolution process (**Alternative Dispute Resolution**) before pursuing a formal litigation process.
- 12.2 If, after pursuing the Alternative Dispute Resolution process in good faith, the Parties are unable to reach an agreement, the Dispute shall be resolved in accordance with standard litigation procedures and in accordance with clause 20.10.
- 12.3 Any action brought by the Client against the Supplier must be brought within eighteen (18) months after the cause of action arises.

### **13. Termination**

- 13.1 Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate the Contract without liability to the other with written notice 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 30 days after being notified in writing to make such payment;
  - (b) the other Party commits a material breach of any other term of the Contract and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so; or
  - (c) the other Party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator appointed or calls a meeting of its creditors or ceases for any other reason to carry on business or in the reasonable opinion of the other Party any of these events appears likely.
- 13.2 A Party may terminate a Statement of Work (and if no other Statements of Work are active at this date, the Contract will terminate) by giving the other Party a minimum of 14 days' written notice.
- 13.3 If the Services are terminated pursuant to this clause 13 before completion of the Services,
- (a) where Services are on a Time and Materials fee basis, all fees for time spent and expenses incurred by the Supplier in accordance with the Statement of Work up to the date of termination will be due and payable within 21 days of receipt of an invoice from the Supplier by the Client; and
  - (b) where Services are on a Fixed Price fee basis, the fee payable for Services performed by the Supplier up to the date of termination shall be prorated according to the proportion which such Services bear to the full Services in accordance with the Statement of Work and will be due and payable within 21 days of receipt of an invoice from the Supplier by the Client. If the Parties are unable to agree on the prorated fee payable in the event of such early termination, the Client will pay the Supplier all sums due at the date of serving the termination notice in accordance with the payment plan set out in the Statement of Work together with fees on a Time and Materials basis for Services provided during the termination notice period up to the date of termination.
- 13.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.
- 13.5 Termination of the Contract 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 Contract which existed at or before the date of termination.

## **14. Force Majeure**

14.1 Neither Party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. 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 14 days the Party not affected may terminate the Statement of Work or the Contract by serving 10 days' written notice to the affected Party.

## **15. Data Protection**

15.1 Each Party shall comply with their respective obligations under Data Protection Legislation in respect of personal data associated with the Services.

15.2 **Data Protection Legislation** means (without limitation) the United Kingdom General Data Protection Regulation, Retained Regulation (EU) 2016/679 (UK GDPR), the Data Protection Act 2018, and the Privacy and Electronic Communications Regulations (2003/2426) (as amended) (PECR); together with all other applicable legislation relating to privacy or data protection including any statute or statutory provision which amends, extends, consolidates or replaces the same. The terms "personal data", "data subject", "controller", "processor", and "process" (and its derivatives) shall have the meanings given to them in the Data Protection Legislation.

15.3 If, in the course of performing the Services under this Contract, the Supplier processes the Client's personal data, then the Supplier shall process such personal data in accordance with the Data Processing Annex to be found on our website: [Data Processing Annex](#)

## **16. Marketing and Announcements**

16.1 Each Party shall be entitled to use the other Party's name and logo for marketing purposes, and, always in accordance with clause 8, to announce the fact that they are working together.

16.2 The Supplier may request to publish the Client's feedback on the Services, and Client hereby agrees not to unreasonably delay or withhold its consent to such publication.

## **17. Compliance with Legislation and Policies**

17.1 Each Party shall comply with the Bribery Act 2010 and all other applicable UK legislation, regulations and codes in relation to bribery and corruption (the "Bribery Laws"), including ensuring that it has in place adequate procedures to ensure compliance with the Bribery Laws and each Party shall ensure that all of that Party's

personnel, all others associated with that Party and all of that Party's sub-contractors involved in performing the Services or otherwise involved with the Contract so comply.

- 17.2 Each Party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in clause 17.1 above.
- 17.3 Each Party shall, and shall procure that it and any other person who performs Services and/or supplies goods in relation to the Contract shall (i) comply with all applicable law relating to slavery and human trafficking including the Modern Slavery Act 2015 and (ii) not take or knowingly permit any action to be taken that would or might cause or lead the other Party to be in violation of any modern slavery legislation.
- 17.4 Each Party represents, warrants and undertakes to the other Party that neither it nor any other person in its supply chain uses trafficked, bonded, child or forced labour or has attempted to use trafficked, bonded, child or forced labour within its supply chain.
- 17.5 Each Party shall perform its obligations under the Contract in accordance with the Equality Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to equality and diversity and shall take all necessary steps to prevent unlawful discrimination.
- 17.6 In performing its obligations under the Contract, the Client shall comply with the Supplier's policy on:
- (a) Anti-Slavery, Human Rights and Labour Standards;
  - (b) Anti-Corruption and Bribery; and
  - (c) Prevention of Sexual Harassment (together, the **Mandatory Policies**).
- 17.7 Breach of clause 17.6 shall constitute a material breach of this agreement, which is irremediable under clause 13.

## **18. Insurance**

- 18.1 The Supplier shall at all times during the term of the Contract and for 6 years after its termination maintain £5,000,000 minimum insurance coverage and limits for the following: (i) employer's liability insurance, per any one occurrence; (ii) public liability, per any one occurrence; (iii) professional indemnity insurance, per claim; (iv) products liability, per any one occurrence; and (v) pollution liability per any one occurrence.

## **19. Personnel**

- 19.1 Whilst the Supplier will attempt to comply with the Client's request for specific individuals, the appointment of all personnel to perform the Services and the nature and duration of their assignment shall be made as the Supplier considers

appropriate. The Supplier may at any time replace or reassign any personnel assigned by it to the Services but any replacement personnel appointed by the Supplier will be no less experienced or qualified than those personnel they are replacing and will be subject to the prior approval of the Client, such approval not to be unreasonably withheld or delayed.

- 19.2 During the provision of the Services, and for a period of twelve (12) months following completion, or termination of the provision, of the Services, neither Party will either directly or indirectly solicit or employ, the personnel of the other Party engaged directly or indirectly in the Services. Breach of this clause will render the defaulting Party liable to pay the other Party liquidated damages equal to 1.5 times the total annual remuneration of the individual concerned on the date that the individual gives notice to its employer, but without prejudice to the innocent Party's other rights, including injunctive relief. Each Party should inform the other if a current employee has applied and the breach is likely to occur at the earliest opportunity.
- 19.3 The Client agrees that, having regard to the Supplier's interest in limiting the personal liability and exposure to litigation of employees, the Client will not bring any claim in respect of losses against any of the Supplier's Professionals personally.
- 19.4 The Supplier may sub-contract the provision of the Services or any part to any person including associated partners and companies; such sub-contracting will not relieve the Supplier from its obligations under the Contract. The Supplier accepts that it takes full responsibility for the actions and inactions of such sub-contractors.

## **20. General**

- 20.1 **Waiver.** A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 20.2 **Rights and remedies.** Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.
- 20.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract.
- 20.4 **Assignment.** The Client shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 20.5 **No partnership or agency.** Nothing in the Contract is intended to or shall operate to create a partnership between the Parties, or to authorise either Party to act as

agent for the other, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

- 20.6 **Third party rights.** Save for Client's Affiliates' rights to enforce the terms of the Contract, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. The Client may make a claim on behalf of its Affiliate, however the Client and the Client's Affiliate may not bring a claim for the same loss separately.
- 20.7 **Survival.** Any provision of this Contract which by its nature extends beyond the expiry or termination of the arrangements set out in this Contract will survive such expiration or termination.
- 20.8 **Notices.** Any notices given pursuant to the Contract shall be in writing, addressed to the relevant contact at the address of the relevant Party set forth in the
- 20.9 Contract (or as otherwise notified) (and in the case of the Supplier as recipient, with a copy sent by email to legalnotices@and.digital), and shall be deemed received when delivered at that address or notices shall be sent by e-mail to legalnotices@and.digital in which case it shall be deemed received at the time e-mail was sent or the following business day if e-mail is sent after business hours or during non-working days (weekends, public holidays).
- 20.10 **Governing law.** The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and interpreted in accordance with the law of England and Wales.
- 20.11 **Jurisdiction.** Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).