

BACKGROUND

These Terms and Conditions apply to Services (defined below) provided by Valiant (defined below), save for in the case of a Retainer (defined below, and which are subject to Valiant's Retainer Terms and Conditions). All Services are carried out by Valiant on the understanding that the Client (defined below) has agreed to these Terms and Conditions.

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Agreement"	means these Terms and Conditions together with the Proposal;
"Business Day"	means a day other than a Saturday, Sunday or bank or public holiday in England;
"Client"	means the party procuring the Services from Valiant who shall be identified in the Proposal;
"Client Materials"	means all Documents, information and materials provided by the Client relating to the Services;
"Commencement Date"	means the date specified in the Proposal, or otherwise agreed in writing between the parties;
"Confidential Information"	has the meaning given in clause 14.1;
"Data Protection Law"	means the Data Protection Act 2018;
"Deliverables"	means all Documents, products and materials developed by Valiant in relation to the Project or the Services in any form, including any computer programs or data and any other deliverables specified in the Proposal;
"Document"	includes, in addition to any document in writing, any artwork, drawing, map, plan, specification, diagram, design, picture or other image, report, tape, disk or other device or record embodying information in any form;

“Discloser”	has the meaning given in clause 14.1;
“Expenses”	means the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by Valiant in connection with the Services;
“Fee”	means the fee specified in the Proposal, or otherwise agreed in writing between the parties;
“Inappropriate Content”	means material that is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, or otherwise unlawful;
“Intellectual Property Rights”	means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or 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 which subsists now or will subsist in the future in any part of the world;
“Personal Data”	has the meaning given under Data Protection Law;
“Pre-existing Materials”	means all Documents, information and materials provided by Valiant relating to the Services which existed prior to the commencement of this Agreement including computer programs and data;
“Project”	means any project for the provision of Services as set out in the Proposal or otherwise agreed in writing between the parties from time to time;
“Proposal”	means the latest proposal or quotation provided by Valiant to the Client, which (i) is no more than 30 days

old from the date of delivery, and (ii) has not been withdrawn by Valiant;

“Purpose”

has the meaning given in the Proposal or otherwise agreed in writing between the parties from time to time;

“Recipient”

has the meaning given in clause 14.1;

“Retainer”

means an Agreement under which Valiant agrees to provide ongoing Services for a fixed number of days/hours per month, or a fixed Service every month, (or at such other intervals as shall be agreed);

“Services”

has the meaning given in the Proposal;

“Term”

has the meaning given in clause 12.1;

“Third Party Costs”

means the cost of all services and products acquired by Valiant from the third parties in connection with the provision of the Services, including print, mailshots, venue hire, postage, couriers, website hosting services, advertising, data sourcing, and the supply of any materials;

“Third Party Tools”

means tools provided by third parties, including (but not limited to) third party software, open-source libraries, artificial intelligence tools, artificial intelligence systems and APIs;

“Valiant”

Valiant Design Limited, of The Dairy Studios, Runfold St George, Farnham, Surrey GU10 1PL

Tel: 01252 783106

Email: info@wearevaliant.com

Company registration number: 4350393

VAT No: 791 8170 04;

“Website”

means any website designed, created and/or hosted by Valiant under the terms of any Proposal; and

“Website Software”

means where this Agreement includes website development, the software for the Website commissioned by the Client.

- 1.2. In this Agreement:
 - 1.2.1. the background section and any clause or other headings in this Agreement are included for convenience only and shall have no effect on the interpretation of this Agreement;
 - 1.2.2. a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;
 - 1.2.3. a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
 - 1.2.4. a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
 - 1.2.5. a reference to a gender includes any other gender and the gender neutral;
 - 1.2.6. words in the singular include the plural and vice versa;
 - 1.2.7. any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
 - 1.2.8. a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
 - 1.2.9. a reference to any legislation or legislative provision is a reference to it as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under this Agreement; and
 - 1.2.10. a reference to legislation includes all subordinate legislation made from time to time under that legislation or which amends such legislation.

2. PLACING AN ORDER FOR SERVICES

- 2.1. Valiant will provide the Client with a Proposal. Any Proposal submitted by Valiant to the Client is open for acceptance for a period of 30 days from its delivery, provided that Valiant has not previously withdrawn it.
- 2.2. Subject to clause 2.1, clients can accept a Proposal by contacting Valiant in writing or signing and returning the Proposal.
- 2.3. The Client acknowledges that the Proposal provided by Valiant is subject to these Terms and Conditions, which are available for review at www.wearevaliant.com/cookies-legal/
- 2.4. By proceeding with any instructions, making payment, or otherwise engaging Valiant's Services, the Client confirms that it has read, understood, and accepted these Terms and Conditions in their entirety. The Client's acceptance of the Proposal shall constitute acceptance of these Terms and Conditions and therefore this Agreement.

3. PROVISION OF THE SERVICES

- 3.1. The Services shall commence on the Commencement Date.
- 3.2. The Services shall, unless terminated earlier in accordance with this Agreement, continue for the Term.
- 3.3. Valiant may, from time to time and without notice, change the Services in order to comply with any applicable safety, operational or statutory requirements, provided that such changes do not materially and adversely affect the nature, scope of, or the charges for the Services.
- 3.4. If the Client wishes to change the Services, Valiant has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of this Agreement to take account of the change. Valiant may charge for its time spent in assessing a request for change from the Client at its standard daily/hourly fee rates from time to time, such charges being payable irrespective of whether the change is subsequently implemented.
- 3.5. Valiant will be permitted to refer to the provision of the Services and its relationship with the Client in its marketing and promotional literature and on its website.

4. VALIANT'S OBLIGATIONS

- 4.1. Valiant shall
 - 4.1.1. provide the Services with reasonable skill and care;
 - 4.1.2. act in accordance with all reasonable instructions given to it by the Client provided such instructions are compatible with the specification of Services provided in the Proposal;
 - 4.1.3. use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Client, in accordance in all material respects with the Proposal.
 - 4.1.4. use reasonable endeavours to meet any performance dates specified in the Proposal, but any such dates shall be estimates only and time shall not be of the essence.
- 4.2. It is the Client's responsibility to check and approve in writing any proofs submitted by Valiant, and Valiant accepts no responsibility or liability for any errors identified once the proofs have been approved. Valiant shall be entitled to charge for all costs and expenses incurred in making any alterations to proofs once these have been approved.
- 4.3. Valiant may, in relation to certain specified matters related to the Services, act on the Client's behalf. Such matters shall not be set out in this Agreement but shall be agreed between the parties as they arise from time to time.

5. CLIENT'S OBLIGATIONS

- 5.1. The Client shall:
 - 5.1.1. fully co-operate with Valiant in all matters relating to the Services and appoint a client manager with the authority to contractually bind the Client on matters relating to the Services or the Project;

- 5.1.2. provide Valiant, its agents, sub-contractors and employees, in a timely manner and at no charge access to the Client's premises, office accommodation, data and other facilities as requested by Valiant for the provision of the Services;
 - 5.1.3. provide Valiant with all Client Materials and other information requested by Valiant in a timely manner, ensuring that such materials and information are accurate in all material respects;
 - 5.1.4. inform Valiant in a timely manner of all applicable health and safety rules, regulations, and other reasonable security requirements at any of the Client's premises where Valiant (or its agents, sub-contractors, or employees) may be required to attend;
 - 5.1.5. provide any decision, approval, consent, or other communication reasonably required by Valiant to continue the provision of the Services or any part thereof in a timely manner; and
 - 5.1.6. obtain, in advance of the provision of the Services, all necessary consents, licences, or permissions from third parties (including, without limitation, landlords, planning authorities, local authorities, and licensing agents such as Getty Images or iStock Photo) required to enable Valiant to perform the Services.
- 5.2. Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any of its obligations under this Agreement shall not be the responsibility of Valiant.
- 5.3. Valiant shall not be liable for any delay or failure to perform the Services to the extent such delay or failure is caused by the Client's failure to comply with its obligations under this Agreement, including but not limited to the Client's failure to provide access, materials, or approvals in a timely manner, or any act, omission, or negligence of the Client, its agents, sub-contractors, or employees. Valiant shall be entitled to charge the Client as if the Services had been performed in full.
- 5.4. The Client shall indemnify Valiant against all liabilities, costs, expenses, damages, and losses (including direct, indirect, or consequential losses, loss of profit, loss of reputation, and all interest, penalties, and legal costs on a full indemnity basis) suffered or incurred by Valiant arising out of or in connection with the Client's breach of this Agreement.
- 5.5. The Client shall not, without the prior written consent of Valiant, during the term of this Agreement and for six months following its termination or the completion of the Services, solicit, entice away, or employ any person who is or has been engaged as an employee or sub-contractor of Valiant in the provision of the Services. Any consent given by Valiant under this clause shall be subject to the Client paying Valiant a sum equivalent to 20% of the annual remuneration of the relevant employee or sub-contractor.

6. CLIENT MATERIALS

- 6.1. Subject to the terms of this Agreement, Client hereby grants Valiant a non-exclusive licence to use the Intellectual Property Rights in the Client Materials in relation to the Services and Deliverables anywhere in the world during the Term.
- 6.2. The Client warrants and represents that:
 - 6.2.1. it has the right, power, and authority to provide the Client Materials for use under this Agreement; and
 - 6.2.2. the Client Materials are either owned by the Client or legally licensed to the Client, and Valiant is fully authorised to use them in accordance with this Agreement.
- 6.3. The Client shall ensure that the Client Materials:
 - 6.3.1. comply with all applicable laws and regulations;
 - 6.3.2. do not infringe the Intellectual Property Rights of any third party; and
 - 6.3.3. do not contain any Inappropriate Content.
- 6.4. Valiant may include a statement on the home page of the Website that the Website was designed by it, provided such statement does not misrepresent the Client's ownership of the Website or its content.

7. FEES AND PAYMENT

- 7.1. The Client shall pay Valiant the Fee set out in the Proposal.
- 7.2. The Client shall pay the Fee to Valiant on the due date specified in the Proposal or, if not set out in the Proposal, the due date specified in the invoice, time being of the essence.
- 7.3. Valiant will invoice monthly and the invoice will reflect work undertaken and completed in that month. A 25% deposit will be required to start a project, and this deposit will be deducted from the final invoice.
- 7.4. All payments required to be made pursuant to this Agreement by the Client shall be made in Great British Pounds in cleared funds to such bank account as Valiant may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.
- 7.5. Where any payment pursuant to this Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.
- 7.6. The Fee does not include disbursements, Expenses, Third Party Costs, other reasonable costs and VAT incurred by Valiant or entities whom Valiant may engage in connection with the Services, which Valiant shall add to its invoices or invoice for separately. Valiant shall use its reasonable endeavours to ensure that the Client is notified in advance of any such disbursements, Expenses, Third Party Costs, other reasonable costs or VAT.
- 7.7. Valiant reserves the right to require payment in advance of any disbursements, Expenses, Third Party Costs or other reasonable costs failing which payment for such disbursements, Expenses, Third Party Costs or other reasonable costs shall be payable in cleared funds within 30 days of receipt of invoice.

- 7.8. Valiant shall be entitled to retain any rebate or discount offered by a third party with regards to disbursements, Expenses, Third Party Costs or other reasonable costs charged by third parties in relation to the Services without passing this on to the Client, or otherwise reserves the right to charge the Client (at its absolute discretion) an uplift on the amount charged by such third party.
- 7.9. Without prejudice to any other right or remedy that it may have, if the Client fails to pay Valiant on the due date, Valiant may:
- 7.9.1. charge interest on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Barclays Bank PLC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and Valiant may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
 - 7.9.2. suspend all Services until payment has been made in full.
- 7.10. If full payment is not received with 60 days of the due date, Valiant reserves the right to hand over the debt to its appointed debt recovery agent. In such cases, all fees incurred will be payable by the Client. In such cases, Valiant reserves the right to terminate activity on the Client's account pending full recovery of the overdue funds. This does not affect the notice period of this Agreement which will continue to run until such time that either party serves notice to the other.
- 7.11. All sums payable to Valiant under this Agreement shall become immediately due and payable upon termination of this Agreement, notwithstanding any other provision and without prejudice to Valiant's right to claim interest on any overdue amounts, or any other rights available under this Agreement or applicable law.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1. All Intellectual Property Rights in the Deliverables or arising out of or in connection with the Services (but excluding the Client Materials) shall be owned by Valiant.
- 8.2. Subject to the terms of this Agreement and payment in cleared funds of the Fee, Valiant hereby grants the Client a non-exclusive licence to use the Intellectual Property Rights in the Deliverables (including the content of any Website and the Website Software) for the Purpose anywhere in the world during the Term.
- 8.3. Upon the completion of any individual Project, and subject to the payment in cleared funds of all Fees relating to the relevant Project, Valiant shall hereby irrevocably assign to the Client the Intellectual Property Rights in the Deliverables or arising out of or in connection with the Project and shall procure that all corresponding moral rights are waived.
- 8.4. Valiant reserves the right to use the Intellectual Property Rights in the Deliverables and any materials created in the provision of the Services for its own marketing and promotional purposes, including on Valiant's website and social media accounts.

9. THIRD PARTY TOOLS

- 9.1. The Client acknowledges and agrees that Valiant may use Third Party Tools in the course of providing Services and Deliverables.
- 9.2. Whilst Valiant will use its reasonable endeavours to comply with its AI Policy, it does not provide any warranties, express or implied, that it will do so. The Client acknowledges and understands that Valiant's AI Policy does not form part of this Agreement.
- 9.3. Valiant does not provide any warranties, express or implied, regarding the functionality, performance, accuracy, reliability or fitness for purpose of Third Party Tools used by Valiant in the provision of the Services or Deliverables.
- 9.4. The Client acknowledges that the use of Third Party Tools may involve the processing of data, including the Client's data. Valiant does not provide any warranties, express or implied, as to whether Third Party Tools used by Valiant in the provision of the Services or Deliverables comply with Data Protection Law.
- 9.5. Valiant will not be liable for any infringement of intellectual property rights or other claims arising from the Valiant's use of Third Party Tools except where such infringement or claim arises directly from Valiant's unauthorised actions.
- 9.6. Valiant will not be liable or responsible for bias, stereotypes, misinformation, unethical information or plagiarism that results from its use of Third Party Tools.
- 9.7. The Client acknowledges that AI technology is evolving and that the reliability and quality of Third Party Tools used by Valiant may change over time. Valiant does not predict or guarantee how Third Party Tools will perform in a real-world setting and disclaims any liability for changes in performance due to the inherent uncertainties and risks associated with Third Party Tools.

10. LIMITATION OF LIABILITY

- 10.1. This clause 10 sets out the extent of Valiant's liability (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:
 - 10.1.1. any breach of this Agreement;
 - 10.1.2. any use made by the Client of the Services, the Deliverables or any part of them; and
 - 10.1.3. any representation, statement or tortuous act or omission (including negligence) arising under or in connection with this Agreement.
- 10.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.
- 10.3. Nothing in this Agreement limits or excludes the liability of Valiant for:
 - 10.3.1. death or personal injury resulting from negligence; or
 - 10.3.2. any breach of the terms implied by s12 Sale of Goods Act 1979 or s2 Sale of Goods and Services Act 1982; or
 - 10.3.3. fraud, or any other liability which cannot be excluded or limited under applicable law.

- 10.4. Subject to clause 10.3:
- 10.4.1. Valiant shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of corruption of data or information, or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
 - 10.4.2. Valiant's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Agreement shall be limited to the Fee received for the Services in the 12 months preceding the claim.
- 10.5. Valiant shall not be liable for any loss or damage suffered by the Client that results from the Client's failure to follow any instructions given by Valiant.
- 10.6. Valiant will not be responsible for and excludes any and all liability to the Client (to the extent permissible by law) that may arise in relation to:
- 10.6.1. its use of Third Party Tools in relation to the Services or Deliverables;
 - 10.6.2. the performance, accuracy, or reliability of any Third Party Tools used in relation to the Services or Deliverables; or
 - 10.6.3. the Client's use of Third Party Tools in relation to the Services or Deliverables.

11. INDEMNITIES

- 11.1. Valiant shall indemnify the Client against any costs, liability, damages, loss, claims or proceedings arising out of Valiant's breach of this Agreement.
- 11.2. The Client shall indemnify Valiant against all liabilities, damages, losses, and expenses (including reasonable legal fees) arising from any action or claim that the Client Materials:
- 11.2.1. infringe the Intellectual Property Rights of any third party; or
 - 11.2.2. constitute Inappropriate Content.
- 11.3. The Client shall indemnify Valiant against any costs, liability, damages, loss, claims or proceedings arising from loss or damage to any equipment (including that belonging to any third parties appointed by Valiant) caused by the Client or its agents or employees.
- 11.4. The indemnity in clause 11.1 is subject to the following conditions:
- 11.4.1. the indemnified party promptly notifies the indemnifier in writing of the claim;
 - 11.4.2. the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;
 - 11.4.3. the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
 - 11.4.4. the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.

- 11.5. The indemnity in clause 11.1 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.
- 11.6. Valiant shall not be liable for any costs, liability, damages, loss, claims or proceedings arising from the use by the Client of any materials produced in the course of the Services, including without limitation claims for the infringement of intellectual property rights.
- 11.7. Neither party shall be liable to the other or be deemed to be in breach of this Agreement by reason of any delay in performing, or any failure to perform, any of that party's obligations if the delay or failure is due to any cause beyond that party's reasonable control.

12. TERM AND TERMINATION

- 12.1. This Agreement shall commence on the Commencement Date and, unless terminated earlier in accordance with its terms, shall continue until completion of the Project (the "Term").
- 12.2. Valiant may terminate this Agreement at any time on 2 weeks' written notice to the Client for any reason.
- 12.3. Valiant may immediately terminate this Agreement by giving written notice to the Client if:
 - 12.3.1. any sum owing to Valiant by the Client under any of the provisions of this Agreement is not paid within 30 Business Days of the due date for payment;
 - 12.3.2. the Client commits any other breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 30 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied. A breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects;
 - 12.3.3. an encumbrancer takes possession, or where the Client is a company, a receiver is appointed, of any of the property or assets of the Client;
 - 12.3.4. the Client makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);
 - 12.3.5. the Client, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the Client under this Agreement);
 - 12.3.6. anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Client;
 - 12.3.7. the Client ceases, or threatens to cease, to carry on business; or
 - 12.3.8. control of the Client is acquired by any person or connected persons not having control of the Client on the date of this Agreement. For the purposes of this clause, "control" and "connected persons" shall have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.

- 12.4. The rights to terminate this Agreement shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

13. EFFECTS OF TERMINATION

- 13.1. Upon the termination of this Agreement for any reason:
- 13.1.1. the Client shall immediately pay to Valiant all of Valiant's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Valiant may submit an invoice, which shall be payable immediately on receipt;
 - 13.1.2. the Client shall, within a reasonable time and at Valiant's election, return all Pre-existing Materials and Deliverables;
 - 13.1.3. the Client shall comply with clause 14.6;
 - 13.1.4. termination shall not affect or prejudice any right to damages or other remedy which the terminating party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any party may have in respect of any breach of this Agreement which existed at or before the date of termination; and
 - 13.1.5. the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

14. CONFIDENTIALITY

- 14.1. In this Agreement, **Confidential Information** means all information of a confidential nature that a party (**Recipient**) has or acquires (whether directly or indirectly) which belongs to the other party (**Discloser**). This includes:
- 14.1.1. any know-how, trade secrets, plans, developments, financial, commercial, technical, tactical, strategic, marketing, operations, customer, product or personnel information of any kind;
 - 14.1.2. all information produced or developed in the performance of this Agreement;
 - 14.1.3. all information agreed to be, or marked as, confidential;
 - 14.1.4. any information the Recipient knows, or could reasonably be expected to know, is confidential; and
 - 14.1.5. the terms of this Agreement.
- 14.2. Confidential Information shall not include any information that:
- 14.2.1. is, or was already known or available to the Recipient, otherwise than pursuant to or through breach of any confidentiality obligation owed to the Discloser (including any third party obligation);
 - 14.2.2. is, or becomes, in the public domain other than through any breach of this Agreement (save that any publicly available information shall be classified as Confidential Information where it is compiled in a form that is not in the public domain);

- 14.2.3. is disclosed to the Recipient without any obligation of confidence to the Discloser by a third party that is not itself under any obligation of confidentiality;
 - 14.2.4. is developed by or on behalf of the Recipient in circumstances where the developing party has not had direct or indirect access to the information disclosed, subject to the Recipient providing satisfactory evidence of the same to the Discloser;
 - 14.2.5. the Discloser agrees in writing does not constitute Confidential Information.
- 14.3. Subject to clauses 14.4, 14.4 and 14.4, the Recipient undertakes that it shall:
- 14.3.1. keep the Confidential Information confidential;
 - 14.3.2. not disclose (whether directly or indirectly) the Confidential Information or allow it to be disclosed in whole or in part to any third party without the Discloser's prior written consent;
 - 14.3.3. take and maintain proper and reasonable measures to ensure the confidentiality of the Confidential Information, including any security measures requested in writing from time to time by the Discloser of the Confidential Information;
 - 14.3.4. not seek to derive benefit or commercial advantage from the Confidential Information in whole or in part for any purpose other than strictly for the performance of its obligations and exercise of its rights under this Agreement; and
 - 14.3.5. not use, copy, reproduce or modify in any form the Confidential Information except to the extent strictly necessary for the performance of its obligations and exercise of its rights under this Agreement (and the Recipient acknowledges that any copies, reproductions or modifications are the property of the Discloser).
- 14.4. The Recipient may disclose any Confidential Information which it is required to disclose by law, or any court, governmental, regulatory or supervisory authority (including any securities exchange) or any other authority of competent jurisdiction.
- 14.5. If the Recipient is required to disclose any Confidential Information pursuant to clause 14.4 then to the extent permitted by law, it shall:
- 14.5.1. notify the Discloser in writing as soon as reasonably practicable upon becoming aware of such requirement so that the Discloser may take steps to prevent such disclosure as it deems appropriate;
 - 14.5.2. make the disclosure after consultation with the Discloser so far as is reasonably practicable; and
 - 14.5.3. co-operate with the Discloser in such manner as the Discloser may reasonably require for this purpose.
- 14.6. Upon the expiry or termination of this Agreement (howsoever caused) or upon receipt by the Recipient of an earlier written demand from the Discloser:

- 14.6.1. a Recipient must return or procure the return to the Discloser or, as the Discloser may require, destroy or procure the destruction of any and all materials containing the Confidential Information together with all copies and modifications; and
- 14.6.2. the Recipient must delete or procure the deletion of all electronic copies of Confidential Information.
- 14.7. The obligations set out in this clause shall survive the termination or expiry of this Agreement.

15. DATA PROTECTION

- 15.1. Each party shall comply with its respective obligations under Data Protection Law.
- 15.2. The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency, and Personal Data will be processed by and on behalf of Valiant in connection with the Services.
- 15.3. Where the Services include website hosting, Valiant warrants that, to the extent it processes any Personal Data on behalf of the Client:
 - 15.3.1. it shall act only on instructions from the Client; and
 - 15.3.2. 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.

16. NOTICES

- 16.1. All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the party giving the notice.
- 16.2. Notices shall be deemed to have been duly given:
 - 16.2.1. when delivered, if delivered by courier or other messenger (including Royal Mail) during normal business hours of the recipient; or
 - 16.2.2. when sent, if transmitted by e-mail and a successful transmission report or return receipt is generated; or
 - 16.2.3. In each case notices shall be addressed to the most recent postal address or e-mail address, notified to the other party.

17. FORCE MAJEURE

A party shall have no liability to the other party under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving its workforce or the workforce of any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

18. FURTHER ASSURANCE

Each party will at the request of the other party, and at the cost of the requesting party, do all acts and execute all documents which are necessary to give full effect to this Agreement.

19. VARIATION

Subject to clause 17, no variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.

20. ASSIGNMENT AND SUB-CONTRACTING

Neither party may assign, subcontract or encumber any right or obligation under this Agreement, in whole or in part, without the other party's prior written consent (such consent not to be unreasonably withheld or delayed).

21. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement 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).

22. SEVERANCE

- 22.1. If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 22.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.
- 22.3. The parties agree, in the circumstances referred to in clause 22.1, and if clause 22.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

23. NO WAIVER

No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

1. THIRD PARTY RIGHTS

No part of this Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

24. ENTIRE AGREEMENT

- 24.1. The parties agree that this Agreement, which consists of these Terms and Conditions and the Proposal, constitutes the entire agreement between them with respect to its subject matter and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

- 24.2. Each party acknowledges that it has not entered into this Agreement in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this Agreement.

Nothing in this Agreement purports to limit or exclude any liability for fraud.

25. CONFLICTS WITHIN AGREEMENT

- 25.1. If there is a conflict between the terms contained in this Agreement, the following descending order of priority applies:
- 25.1.1. these Terms and Conditions;
 - 25.1.2. the Proposal.

26. NON-SOLICITATION

- 26.1. Client shall not, for the Term of this Agreement or for 2 years following termination or expiry of this Agreement, employ or contract the services of any person who is or was employed or otherwise engaged by Valiant at any time in relation to this Agreement, without the express written consent of Valiant.
- 26.2. Client shall not, for the Term of this Agreement and for 2 years following termination or expiry, solicit or entice away from Valiant any customer or client where any such solicitation or enticement would cause damage to the business of that party, without the express written consent of Valiant.

27. DISPUTE RESOLUTION

- 27.1. If any dispute arises between the parties out of, or in connection with, this Agreement, the matter shall be referred to a senior representative of each party who shall use their reasonable endeavours to resolve it.
- 27.2. If the dispute is not resolved within 14 days of the referral being made under clause 27.1, the parties shall refer the matter to mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 27.3. Until the parties have completed the steps referred to in clauses 27.1 and 27.2, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

28. GOVERNING LAW AND JURISDICTION

- 28.1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the laws of England and Wales.
- 28.2. Subject to clause 27, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.