

CLICK INNOVATION LIMITED

PART A – GENERAL TERMS AND CONDITIONS

THESE CONDITIONS GOVERN THE PROVISION AND SALE OF OUR SERVICES TO YOU. PLEASE READ THESE CONDITIONS CAREFULLY BEFORE PLACING AN ORDER WITH US. BY ORDERING OUR SERVICES YOU AGREE TO THESE CONDITIONS WHICH WILL BIND YOU AND YOUR EMPLOYEES.

PLEASE ENSURE THAT YOU PRINT A COPY OF THIS AGREEMENT FOR YOUR RECORDS.

1. Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions and the terms and conditions which apply to the supply of the Services set out in Part B below (**Conditions**).

Contract: these Conditions (as may be amended from time to time) and the Order which has been accepted or confirmed by the Supplier under condition 2.2 below.

Confirmation: the e-mail confirmation issued by the Supplier to the Customer confirming the terms of the Order.

Customer: the person, firm or company who purchases Services from the Supplier.

Document: includes, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.

Intellectual

Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, 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 right, 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.

Order: the Customer's purchase order for the Services completed via the Website.

Services: the services to be provided by the Supplier under the Contract as set out in Part B below, together with any other services which the Supplier provides or agrees to provide to the Customer from time to time.

Supplier: Click Innovation Limited (registered number 6419096) and whose registered office is at Maple House, Bayshill Road, Cheltenham, Glos GL50 3AW.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

Website: the Supplier's website at www.clickinnovation.co.uk.

1.2 Condition, schedule and paragraph headings shall not affect the interpretation of these conditions.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

- 1.4 Words in the singular shall include the plural and vice versa.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A reference to **writing** or **written** includes faxes and e-mail.
- 1.7 Where the words **include(s)**, **including** or **in particular** are used in these terms and conditions, they are deemed to have the words **without limitation** following them and where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.
- 1.8 Any obligation in the Contract on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.9 References to conditions are to the conditions of the Contract.

2. Application of Conditions

- 2.1 These Conditions shall:
- (a) apply to and be incorporated into the Contract; and
 - (b) prevail over any inconsistent terms or conditions contained, or referred to, in the Order, or implied by law, trade custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Services specified in it on these Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
- (a) by a Confirmation; or
 - (b) (if earlier) by the Supplier starting to provide the Services,

when a contract for the supply and purchase of those Services on these Conditions will be established. The Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Contract.

- 2.3 The Customer hereby confirms that (i) in the case of an individual, he or she is at least 18 years old, or (ii) the director or person who completed a purchase order or accepted any quotation for Services by the Supplier has the necessary authority to act on the Customer's behalf and bind the Customer to the Contract and all details given or provided to the Supplier were accurate and up to date.

3. Commencement and Duration

- 3.1 The Services supplied under the Contract shall be provided by the Supplier to the Customer from the date of acceptance by the Supplier of the Customer's offer in accordance with condition 2.2.
- 3.2 The Services supplied under the Contract shall continue to be supplied for the period specified in the Order and/or as set out in Part B below in respect of the relevant Service(s) and, after that, shall continue to be supplied unless the Contract is terminated in accordance with condition 10 or otherwise in accordance with the Contract.
- 3.3 At any time after the date of the Contract, the Customer may request a change to the Services. In respect of any changes or variations, the Supplier reserves the right to charge associated costs at its discretion.
- 3.4 The Supplier may vary these Conditions at any time by posting the changes or any new version of the same on the Website and, where reasonably practicable, giving the Customer prior notice. The Customer hereby agrees that, if the Customer decides to use the Services after any variation(s) to these Conditions have been posted on the Website, the Customer will be bound by the Contract as varied.

4. Supplier's Obligations

The Supplier endeavours to provide the Services by any date(s) agreed with the Customer. Any such dates shall be estimates only and time shall not be of the essence of the Contract. The Supplier shall also make the Services available for the period specified in clause 3 above, subject to the terms of this Contract.

5. Customer's Obligations

5.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) where applicable, provide for the Supplier, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Customer's premises;
- (c) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer's premises; and
- (d) obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services in all cases before the date on which the Services are to start.

5.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer, its agents, sub-contractors or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

5.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy

resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Contract.

- 5.4 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of the Contract to the expiry of six months after the termination of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Supplier in the provision of the Services.

6. Charges and Payment

- 6.1 All sums payable to the Supplier for the provision of the Services selected in the Order shall be on the terms set out in Part B of these Conditions below. All invoices shall be sent to the Customer by the Supplier by e-mail in PDF format.

- 6.2 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:

- (a) charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of HSBC Bank plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
- (b) suspend all Services until payment has been made in full.

- 6.3 Time for payment shall be of the essence of the Contract.

- 6.4 All sums payable to the Supplier under the Contract shall become due immediately on its termination, despite any other provision. This condition 6.4 is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

- 6.5 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

7. Confidentiality

- 7.1 The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with the Contract (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential or which is obviously confidential in nature and neither will, without the consent in writing of the other, divulge the same to any third party except such of its employees contractors and agents as may need to know the same for the purposes of the implementation of the Contract and who agree to be bound by the provisions of this clause.

- 7.2 The obligations aforesaid shall not apply to any material or information which is (i) in the public domain (other than as a result of a breach of this Agreement), (ii) already known to the receiving party, or (iii) lawfully received from a third party and/or ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.

8. Limitation of Liability - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

- 8.1 This condition 8 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of the Contract;
- (b) any use made by the Customer of the Services; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

8.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

8.3 Nothing in these Conditions limits or excludes the liability of the Supplier:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier.

8.4 Subject to condition 8.2 and condition 8.3:

- (a) the Supplier shall not be liable, whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation or otherwise for:

- (i) loss of profits; or

- (ii) loss of business; or

- (iii) depletion of goodwill and/or similar losses; or

- (iv) loss of anticipated savings; or

- (v) loss of goods; or

- (vi) loss of contract; or

- (vii) loss of use or reduced speed of use; or

- (viii) loss or corruption of data or information; or

- (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

- (b) the Supplier'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 the Contract shall be limited to the price paid for the Services.

9. Data Protection

The Customer acknowledges and agrees that details of the Customer'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 the Supplier in connection with the Services.

10. Termination

10.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- (a) the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

- (d) a receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (e) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other party ceases, or threatens to cease, to trade; or
- (g) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

10.2 The Supplier may also terminate the Contract immediately upon a change of control of the Customer (as defined in section 574 of the Capital Allowances Act 2001).

10.3 On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest, all charges in respect of Services for the unexpired contractual term of any Services provided under Part B of these Conditions below, and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (b) 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; and
- (c) the Supplier shall immediately cease the supply of the Services.

11. Force Majeure

The Supplier shall have no liability to the Customer under the Contract if it is prevented from or delayed in performing its obligations under the Contract 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 the workforce of the Supplier or 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.

12. Waiver

- 12.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.
- 12.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

13. Severance

- 13.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 13.2 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.
- 13.3 The parties agree, in the circumstances referred to in condition 13.1 and if condition 13.2 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. The obligations of the parties under any invalid or unenforceable provision of the Contract shall be suspended while an attempt at such substitution is made.

14. Status of Pre-Contractual Statements

Each of the parties acknowledges and agrees that, in entering into the Contract it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

15. Assignment

15.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

15.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

16. 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).

17. Rights of Third Parties

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

18. Notices

Notice given under the Contract shall be in writing, sent for the attention of the person, and to the address, fax number, or e-mail address given in the Contract (or such other address, fax number, e-mail address or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax, sent by e-mail or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of e-mail, 24 hours after an e-mail is sent, and in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this condition 18 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party, in the case of post, that the envelope containing the notice was properly addressed and posted and in the case of e-mail, that such e-mail was sent to the specified e-mail address of the addressee.

19. Linking

The Customer agrees to allow the Supplier to have a permanent clearly visible link to the Website on any website the Supplier creates for the Customer in performing the Services and from all login pages where the Customer uses the Click HQ Service described in Part B of these Conditions below.

20. Governing Law and Jurisdiction

- 20.1 The Contract 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 law of England and Wales.
- 20.2 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 the Contract or its subject matter.

PART B – SERVICES TERMS AND CONDITIONS

Except as otherwise defined herein and except where the context requires otherwise, words and expressions defined in the General Terms and Conditions set out in Part A above, shall have the same meanings when used in these terms and conditions.

CLICK HQ SERVICES

1. Additional Definitions

- Click Customer Website** **HQ** means any Customer website designed and developed by the Supplier in accordance with the Website Design Service terms and conditions set out in this Part B below and powered by the Click HQ Services;
- Click HQ Service Fee** means the Set-Up Fee, the Licence Fee and any Module Fee(s);
- Click HQ Services** means the software application services of the Supplier, as described in condition 2.2 and the Confirmation, and made available to the Customer together with the provision of any Module(s);
- Customer Content** means all data, graphics, files and information the Customer submits in connection with its use of the Software and the Click HQ Services, including Personal Information;
- Customer Developments** means any specific configurations, customisations and bespoke programming in relation to the Software, which the Customer may require and which the Supplier agrees to provide at an additional cost agreed between the parties;
- Commencement Date** means (i) the date which occurs 7 days after the Supplier sends a Confirmation to the Customer; or (ii) the date from which the Click HQ Services are accessed (whichever occurs first), and any amendment to such date in accordance with

condition 6.4 below;

Initial Period	means the period from the Commencement Date until the first anniversary of such date or such other period as may be agreed between the parties and specified in the Confirmation;
Licence Fee	the licence fee payable by the Customer to the Supplier in respect of the licence of the Software as set out in condition 6.1.2;
Minimum Uptime	means an average of at least 99% server uptime during Working Hours for the Term;
Modification	means any release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software;
Module	means any additional services which the Customer requires in respect of the Click HQ Services including, without limitation, the design, development and hosting of a Click HQ Customer Website;
Module Fees	means any initial and/or monthly fees to be paid by the Customer to the Supplier for the provision of any Module(s) as set out in the Confirmation and in accordance with condition 6.1.1 below;
Object Code	the machine readable executable program code for the Click HQ Customer Website containing computer instructions translated by a compiler;
Personal Information	Shall have the meaning in the Data Protection Act 1998;
Set-Up Fee	means the set-up fee per licensed User to be paid by the Customer to the Supplier as set out in the Confirmation and in accordance with condition 6.1.1;

Software	the Click HQ software which is provided and hosted by the Supplier including all updates, enhancements and Modifications of the same together with any Customer Developments;
Source Code	a version of the Click HQ Customer Website code in such eye readable form that it can be compiled or interpreted into equivalent Object Code together with all technical information and documentation necessary for the use, reproduction, modification and enhancement of the same;
Staff	means any employees, officers, agents or contractors of either party;
Term	means the term of this Contract for the supply of the Click HQ Services as specified in condition 8 (Term);
User	means each member of the Customer's Staff permitted to use and granted access to the Software;
Working Hours	means between the hours of 9am and 5pm (UK Time) from Monday to Friday (inclusive).

2. Services and Licence

2.1 Subject to the Customer making payment of the Click HQ Service Fee, the Supplier shall (i) supply the Click HQ Services to the Customer in accordance with these Conditions and as set out in the Confirmation, and (ii) grant to the Customer a non-exclusive and non-transferable licence to use the Software during the Term solely for business use with its staff and customers.

2.2 The Click HQ Services shall include:

2.2.1 making the Software available to the Customer to access the same and to use and upload the Customer Content;

2.2.2 creating a regular back-up of the Customer Content;

- 2.2.3 making all necessary Modifications to the Software and ensuring that it is fully updated; and
 - 2.2.4 making any Customer Developments.
- 2.3 The Customer will obtain and maintain at its own cost and shall be responsible for, to the exclusion of the Supplier, all necessary hardware, software and telecommunications and other services required to enable the Customer to access the Click HQ Services.
- 2.4 The Customer agrees to comply with all rules, regulations, terms and conditions and conduct policies of any telecommunications provider, systems or services required to access the Click HQ Services.
- 2.5 The Supplier will provide the Customer with a login and password to enable access the Click HQ Services. Each user of the Click HQ Service shall be allocated a pin number which must be changed upon first use of the same by the Customer.
- 2.6 The Customer shall be responsible for keeping confidential all login and password information supplied from time to time. If the Customer becomes aware of any unauthorised access the Customer agrees to immediately notify the Supplier.
- 2.7 The Customer shall:
 - 2.7.1 back up all Customer Content on a regular basis; and
 - 2.7.2 be solely responsible for ensuring that the permissions granted to its Staff for using the Software are current and shall be kept up to date at all times.
- 2.8 The Customer shall be entirely responsible for all access to the Click HQ Services by its Staff or by any other persons accessing the Software using

the Customer's login and password information (whether authorised by the Customer or not).

- 2.9 The Supplier shall be entitled, on prior notice to the Customer, to make changes to the Click HQ Services, provided such changes do not have a material adverse affect on the functionality of the same.
- 2.10 The Supplier shall have no obligation to correct or continue to provide the Click HQ Services where the cause or causes of any fault have been identified as having arisen from any of the following:
- 2.10.1 misuse or incorrect use of the Click HQ Services;
 - 2.10.2 use of the Click HQ Services in combination with any unsuitable equipment or any fault in any such equipment or software; or
 - 2.10.3 any breach of the Customer's obligations under these Conditions.
- 2.11 The Supplier may in its absolute discretion sub-contract the performance of any of its obligations under these Conditions.

3. Customer Conduct

- 3.1 The Customer shall not use the Click HQ Services or the Software to store send or otherwise process material that is or may in the reasonable opinion of the Supplier be considered to be obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights or any other law or regulation (**Inappropriate Content**).
- 3.2 The Customer acknowledges that the Supplier has no control over any Customer Content and does not purport to monitor such content. The Supplier reserves the right to remove any Customer Content where it reasonably suspects such content is Inappropriate Content. The Supplier

shall notify the Customer if it becomes aware of any allegation that Customer Content may be Inappropriate Content.

- 3.3 The Customer shall indemnify and hold harmless the Supplier and its affiliates, employees, agents, contractors, directors, officers and third party providers from all liabilities, demands, costs, damages and expenses (including legal expenses) arising out of or in connection with any breach by the Customer of this clause.

4. Uptime/Availability

- 4.1 The Supplier shall endeavour to provide the Click HQ Services on a continuous basis subject to these Conditions.

- 4.2 The Supplier shall in addition to its obligations under condition 4.1 endeavour to achieve the Minimum Uptime.

- 4.3 In the event that the Customer becomes aware that the Click HQ Services are unavailable (other than as a result of notification by the Supplier under condition 4.5 below):

- 4.3.1 the Customer shall immediately notify the Supplier of the same;
and

- 4.3.2 the Supplier shall endeavour to rectify faults or problems to restore the system to full operational capacity as soon as reasonably practicable.

- 4.4 The Customer acknowledges that the internet and the Supplier's systems, servers and equipment may from time to time be inoperative in full or in part as a consequence of factors beyond the Supplier's reasonable control, including but not limited to mechanical breakdown, maintenance, hardware or software upgrades and telecommunication connectivity problems. The Supplier will not be liable for its failure or inability to provide continuous, error free, uninterrupted services under these circumstances.

- 4.5 In the event of any interruption as set out in this clause, the Supplier will notify the Customer as soon as reasonably practicable of any such interruption to its ability to provide the Click HQ Services by posting a notice on the Website or by any other reasonable means available to it.

5. **Intellectual Property**

- 5.1 The Customer acknowledges that all Intellectual Property Rights in the Software, the Click HQ Services, any Modification and any Module belong and shall belong to the Supplier, and the Customer shall have no rights in or to the Software or the Click HQ Services other than the right to use it in accordance with the terms of this Contract. For the avoidance of doubt, the Customer shall have no right of access to or right to use the Source Code for any Click HQ Customer Website.
- 5.2 The Customer has no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Software in whole or in part except to the extent that any reduction of the Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.
- 5.3 The Supplier undertakes at its own expense to defend the Customer or, at its option, settle any claim or action brought against the Customer alleging that the use of the Software or the Click HQ Services (or any part thereof) in accordance with these Conditions infringes the UK Intellectual Property Rights of a third party (**Infringement Claim**). For the avoidance of doubt, this action shall not apply where the Infringement Claim in question is

attributable to use of the Software (or any part thereof) by the Customer other than in accordance with these Conditions.

5.4 Condition 5.3 is conditional on:

5.4.1 the Customer notifying the Supplier in writing, as soon as reasonably practicable, of any Infringement Claim of which it has notice;

5.4.2 the Customer not making any admission as to liability or compromise or agreeing to any settlement of any Infringement Claim without the prior written consent of the Supplier; and

5.4.3 the Supplier having, at its own expense, the conduct of or the right to settle all negotiations and litigation arising from any Infringement Claim and the Customer giving the Supplier all reasonable assistance in connection with those negotiations and such litigation at the Supplier's request and expense.

5.5 If any Infringement Claim is made, or in the Supplier's reasonable opinion is likely to be made, against the Customer, the Supplier may at its sole option and expense:

5.5.1 procure for the Customer the right to continue using, developing, modifying or maintaining the Software or the Click HQ Services (or any part thereof) in accordance with the terms of this Contract; or

5.5.2 modify the Software or the Click HQ Services so that it ceases to be infringing; or

5.5.3 replace the Software with non-infringing software; or

5.5.4 terminate the Contract for the Click HQ Services immediately by notice in writing to the Customer and refund any of the Click HQ Service Fee paid by the Customer as at the date of termination (less a reasonable sum in respect of the Customer's use of the Software and the Click HQ Services to the date of termination).

6. Fees and Payment

6.1 The Customer will pay to the Supplier the Click HQ Service Fee as follows:

6.1.1 The Set-Up Fee shall be invoiced by the Supplier on the same day as the Supplier sends a Confirmation to the Customer and must be paid in full within 14 days.

6.1.2 The Licence Fee shall (i) be payable from the Commencement Date by the Customer monthly in advance by Direct Debit within 14 days of the date of the Supplier's invoice which shall be issued on the last working day of each month during the Term or (ii) annually in advance within 14 days of the date of the Supplier's invoice.

6.1.3 Any Module Fees chargeable shall be payable as follows:

6.1.3.1 Any initial fee shall be invoiced by the Supplier on the same day as the Supplier sends a Confirmation to the Customer and must be paid in full within 14 days; and

6.1.3.2 Any monthly fee shall be payable monthly in advance by Direct Debit within 14 days of the date of the Supplier's invoice which shall be issued on the last working day of each month during the Term. Where services in relation to any Module are commenced prior to the date of issue of the first invoice hereunder, the Customer shall also be charged for any arrears that are due and payable.

All agreed costs in relation to any Customer Developments undertaken by the Supplier shall be added to the monthly/annual Licence fee (as the case may be under condition 6.1.2 above) either, at the Supplier's sole discretion, at a fixed cost per month/year, on a per User basis per month/year or as a one-off fee. Such arrangements shall be specified (where applicable) in the Confirmation.

For the avoidance of doubt, the Supplier may also, at its sole discretion, allow the Customer to pay the Click HQ Service Fee by way of quarterly instalments. Such arrangements shall be specified (where applicable) in the Confirmation.

- 6.2 The Supplier will increase the Licence Fee by a minimum of £1 per User on each anniversary of this Contract (the "Standard Increase"). Where, in the event that the Licence Fee is increased in excess of the Standard Increase, the Customer shall either agree to pay such increase or have the right to terminate the Contract for the Click HQ Service.
- 6.3 The Customer shall be allocated a data storage and data transfer allowance per User as set out in the Confirmation. In the event that the aggregate storage thresholds for all Users are exceeded, then the Supplier shall invoice the Customer for additional data stored and/or transferred and this shall be added to the Licence Fee payable for the relevant month/year.
- 6.4 In the event that the Customer requests additional Users to be added, then the Licence Fee shall be increased accordingly and the Term shall be automatically renewed for a period of 12 months in accordance with condition 8 and the Commencement Date shall then become the date on which such additional User(s) shall be permitted access to use the Software.
- 6.5 In the event that the Customer requests any Module(s) to be added during the Term, then the relevant Module Fee(s) shall be payable accordingly and the Term shall be automatically renewed for a period of 12 months in accordance with condition 8 and the Commencement Date shall then become the date on which the Supplier sends a Confirmation to the Customer confirming its agreement to the supply of the Module(s).
- 6.6 In the event that the Customer wishes to reduce the number of licensed Users, the Licence Fee shall not be reduced until the expiry of the relevant period during which the reduction took place.
- 6.7 Without limiting any other right or remedy available to the Supplier, the Supplier may on giving seven (7) days written notice, refuse to provide the Click HQ Services and suspend access to the Software in the event that the Customer:

- 6.7.1 fails to pay any sums due to the Supplier under this Contract; or
 - 6.7.2 otherwise defaults in the due observance and performance of this Contract.
- 6.8 In the event of late payment by the Customer, the Customer shall, if so requested by the Supplier (and in the Supplier's sole discretion), pay all fees and charges for the remainder of the Term, quarterly or, if applicable, annually in advance.

7. Warranties

- 7.1 Each party warrants to the other that:
- 7.1.1 it has authority to enter and to perform its obligations under this Contract; and
 - 7.1.2 it has the ability to perform its obligations under these Conditions.
- 7.2 The Supplier warrants to the Customer that it will not, unless in the reasonable opinion of the Supplier it is required by law to do so, access the Customer Content for any reason other than for maintenance of the Software, creating back-ups or restoring Customer Content, or as otherwise expressly set out within this Contract.
- 7.3 The Customer warrants to the Supplier:
- 7.3.1 that the Customer Content supplied by the Customer for use in conjunction with the Software will not infringe the rights of any person or contravene any law, including but not limited to the data protection principles contained within the Data Protection Act 1998 and the Customer shall otherwise comply with the Data Protection Act 1998;

- 7.3.2 that at the time of entering into this Contract the Customer is not relying on any representation made by the Supplier which has not been expressly set out in these Conditions; and
- 7.3.3 that the Customer shall install and maintain suitable virus protection software of not less than industry standard, and take all other reasonable steps to ensure that any software used in connection with the Click HQ Services, and the Customer Content provided to the Supplier or used or created in connection with the Click HQ Services will be free from any virus and will not damage or corrupt any other data or system.
- 7.4 The Supplier warrants that, to the extent it processes any Personal Information on behalf of the Customer:
- 7.4.1 it shall act only on instructions from the Customer; and
- 7.4.2 it has in place appropriate technical and organisational security measures against unauthorised or unlawful processing of Personal Information and against accidental loss or destruction of, or damage to, Personal Information.
- 7.5 No representation or warranty is given by the Supplier that all faults will be fixed or will be fixed within a specified period of time. Whilst the Supplier shall endeavour to ensure that the Software and the Click HQ Services are free from infection, viruses and/or any other code that has contaminating or destructive properties (**Contamination**) the Supplier does not warrant that the Software or Click HQ Services will be free from such Contamination.

8. **Term**

The Contract for the supply of the Click HQ Services shall commence on the Commencement Date and continue for the Initial Period, unless terminated earlier under Part A above. Following the Initial Period, the Contract for the supply of the Click HQ Services shall automatically continue in full force and effect for further periods of twelve months (**Extended Period**) unless and until terminated by either party giving a

minimum of 3 months notice in writing to the other. For the avoidance of doubt, notice to terminate cannot expire until the Initial Period (or any Extended Period) has expired.

HOSTING SERVICES

1. Additional Definitions

Commencement Date means the date on which the Hosting Services commence;

Customer Content means all data, graphics, files and information the Customer submits in connection with its use of the Hosted Site;

Initial Period means the period from the Commencement Date until the first anniversary of such date or such other period as may be agreed between the parties and specified in the Confirmation;

the Server means the server(s) on which the Hosted Site will be hosted;

Hosting Charges means the charges for the Hosting Services to be made by the Supplier in accordance with condition 3 below;

Hosting Services means the hosting services to be performed in accordance with this Contract;

Hosted Site means the Website and any other software of the Customer which the Supplier agrees to host for the Customer, as set out in the Confirmation;

Term means the term of this Contract for the supply of the Hosting Services as set out in condition 8 below;

Website the Customer's website with the address notified to the Supplier.

Working Hours means between the hours of 9am and 5pm (UK Time) from Monday to Friday (inclusive).

2. Hosting Services

2.1 The Supplier agrees to host the Hosted Site on the Server with effect from the Commencement Date.

2.2 The Supplier shall provide the Hosting Services with reasonable skill and care.

2.3 Whenever routine preventative maintenance work is due to be carried out by any third party owner of the Server (which will or in the Supplier's reasonable opinion, will be likely to adversely affect the Hosted Site's performance) then the Supplier will (where practicable):

2.3.1 inform the Customer of the reason for the change in performance and the estimated start time; and

2.3.2 inform the Customer when the maintenance has been completed.

3. Hosting and Related Charges

3.1 The Customer will pay to the Supplier the Hosting Charges which shall be payable by the Customer either (i) monthly in advance by Direct Debit within 14 days of the date of the Supplier's invoice which shall be issued on the last working day of each month during the Term or (ii) annually in advance within 14 days of the date of the Supplier's invoice.

3.2 Without limiting any other right or remedy available to the Supplier, the Supplier may on giving seven (7) days written notice, refuse to provide the Hosting Services and suspend access if the Customer:

3.2.1 fails to pay any sums due to the Supplier under this Contract; or

3.2.2 otherwise defaults in the due observance and performance of this Contract.

- 3.3 In the event of late payment by the Customer, the Customer shall, if so requested by the Supplier and in the sole discretion of the Supplier, pay all fees and charges for the remainder of the Term, quarterly or, if applicable, annually in advance.

4. Hosting Conditions

- 4.1 The Supplier acknowledges that it is responsible for the provision of the Hosting Services on the terms of this Contract, but without prejudice to the same the Supplier shall procure that the Customer's officers, employees, contractors and authorised representatives shall have access to the Server to amend, update or edit the Customer Content on the Hosted Site.
- 4.2 The Supplier shall endeavour to ensure that the Hosted Site is available to the Customer 99% of the time during Working Hours. Where the Hosted Site is not so available, the Customer will be credited with an amount calculated monthly as the aggregate of all downtime events. "**Downtime**" for the purposes of this clause 4 means any service interruption of one minute or more in the availability of the Hosted Site but only if the interruption is due to a default by the Supplier excluding outages in accordance with clause 2.3 above.

5. Specific Responsibilities of the Customer

- 5.1 The Customer is solely responsible for maintaining the security of its Hosted Site and usage.
- 5.2 The Customer acknowledges and agrees that the Supplier may be required by a law enforcement agency to monitor Customer Content and traffic and if necessary give evidence to support or defend any dispute or actionable cause or matter which arises in relation to the same.
- 5.3 The Customer shall be solely responsible for the following:
- 5.3.1 the accuracy of all Customer Content;

- 5.3.2 any information, programs and other information that the Customer receives as a result of the use of the Hosting Services, including without limitation, the entire responsibility of any losses of data, programs, breaches of security, viruses and disabling or harmful devices that the Customer may download or otherwise experience as a result of the Customer's use of the Hosted Site; and
- 5.3.3 the Customer agrees to use the Hosted Site in a manner consistent with any and all applicable laws and regulations.

6. Warranties

The Supplier warrants to the Customer:

- 6.1.1 that it will observe the obligations on it as a data processor contained in the seventh data protection principle of the Data Protection Act 1998 (DPA) (as the term "data processor" is defined in the DPA); and
- 6.1.2 that all data will be backed up regularly in secure back up storage.

7. Data Protection and Content

- 7.1 The Supplier agrees that it shall act as a 'data processor' on behalf of the Customer for the purposes of the DPA.
- 7.2 The Supplier agrees that it will not process personal data on behalf of the Customer, save in accordance with the terms of this Contract and any instructions from time to time of the Customer (whether given orally or in writing).
- 7.3 The Customer understands that all Customer Content included in the Hosted Site is the sole responsibility of the person from which such Content originated. This means that the Customer, and not the Supplier, is entirely responsible for all Customer Content that it creates, uploads, downloads, posts, e-mails or otherwise transmits via the Hosted Site. The Supplier does not control, and as such, does not guarantee the accuracy, integrity or quality of such Customer Content. Under no circumstances will

the Supplier be liable in any way for any Customer Content, including, but not limited to, any errors or omissions in any Customer Content, or for any loss or damage of any kind incurred as a result of the use of any Customer Content created, posted, e-mailed or otherwise transmitted via the Hosted Site.

8. Term

This Contract for the supply of the Hosting Services shall commence on the Commencement Date and continue for the Initial Period, unless terminated earlier under Part A above. Following the Initial period, the Contract shall automatically continue in full force and effect for further periods of twelve months (**Extended Period**) unless and until terminated by either party giving a minimum of 3 months notice in writing to the other. For the avoidance of doubt, notice to terminate cannot expire until the Initial Period (or any Extended Period) has expired.

WEBSITE DESIGN SERVICES

1. Additional Definitions

Customer Materials	means all original material, documents, designs, software, data, logos and trade marks supplied by the Customer to the Supplier for use in the Deliverables or otherwise in connection with the Design Services.
Commencement Date	means the date on which the Supplier commenced the provision of the Design Services.
Confidential Information	means any and all information relating to the trade secrets, operations, plans, intentions, product information, know-how, working methods, transactions, affairs and/or business of the parties and/or to their customers and suppliers.
Deliverables	means the Specification and the Website to be created and provided to the Customer by the Supplier through the performance of the Design Services.
Design Charges	means the charges for the provision of the Design Services as set out condition 7.
Design Services	means the services being provided or to be provided by the Supplier to the Customer comprising the development and supply of the Specification and the development and supply and implementation of the Website.

Error means a material breach of the warranty in condition 5.1.

Specification means the specification describing the functions, characteristics and capabilities of the Website as agreed between the parties.

Website means the website to be developed and implemented by the Supplier for the Customer in accordance with the Specification.

2. Supplier's Obligations

2.1 In consideration of the payment of the Design Charges the Supplier shall with effect from the Commencement Date:

2.1.1 perform the Design Services and create and provide the Deliverables; and

2.1.2 respond promptly to the Customer's reasonable requests and instructions in relation to the provision of the Design Services.

3. Customer's Obligations

3.1 The Customer shall at its own expense supply the Supplier with all necessary access to the Customer Materials and to the Customer's premises, personnel or computer systems within sufficient time to enable the Supplier to provide the Design Services in accordance with this Contract. The Customer shall ensure the accuracy of all information provided to the Supplier and ensure that its employees co-operate fully with the Supplier in relation to the provision of the Services.

3.2 The Customer shall, before commencement of the Design Services, nominate an authorised representative who will be the Customer's prime

point of contact with the Supplier and whose decisions will bind the Customer.

- 3.3 The Customer now grants the Supplier a non-exclusive, perpetual, non-transferable, royalty free, worldwide licence to use the Customer Materials as is necessary for performance of the Supplier's obligations under this Contract.

4. Timescales and performance

- 4.1 The Supplier will endeavour to perform the Design Services and provide the Deliverables in accordance with the timescales agreed by the parties.
- 4.2 The parties will agree appropriate methods of monitoring the progress of the Design Services and of the completion of any phases of the Design Services. If idle time or delay is incurred by reason of a failure by the Customer (or its employees or contractors) to meet its obligations, the time for delivery of the Design Services shall be extended by such time as is reasonable in relation to the time and nature of the delay.
- 4.3 The parties acknowledge and agree that development of the Specification is an iterative process. The Customer agrees that subject to Condition 4.4 below, the Customer may make changes to the Specification after the Commencement Date.
- 4.4 If the changes to the Specification would in the Supplier's reasonable opinion have an impact on the time or resources that the Supplier would need to commit towards provision of the Design Services and/or in the Supplier's reasonable opinion is likely to have a material impact on the timetable agreed between the parties, then the Supplier will discuss with the Customer the likely impact the requested change may have and may, with the Customer's agreement on a case by case basis, charge for additional work that may be required. The parties may agree new Specifications from time to time. To be effective the parties' authorised signatories must sign the new Specification and if so signed such new

Specification shall take effect from the effective date set out in the new Specification.

5. Warranties

- 5.1 The Supplier warrants that for a period of 30 days after delivery (the **“Warranty Period”**) the Website will materially conform to the Specification. Save as set out in condition 5.2 below, if the Customer reports any Error during the Warranty Period then the Customer’s sole and exclusive remedy for such Error will be for the Supplier to use all reasonable efforts to correct the Error at no cost to the Customer as soon as reasonably possible.
- 5.2 Condition 5.1 does not apply, if, and to the extent that, in the Supplier’s reasonable opinion the Error:
- 5.2.1 is caused by any amendment of the Website by the Customer or any third party on the Customer’s behalf unless such amendments are with the prior approval of the Supplier;
- 5.2.2 is caused by material act or omission of the Customer; or
- 5.2.3 is due to the Customer’s misinterpretation of the Specification.
- 5.3 The Supplier will provide assistance to the Customer in correcting any Errors arising from one of the matters set out in condition 5.2 at the Supplier’s then current time and materials rates.
- 5.4 The Customer acknowledges that the Website may contain complex and extensive computer instructions and code and, consequently, the Supplier cannot, and does not, warrant that the operation of the Website will be uninterrupted or entirely error free and excludes any liability therefore. The warranties expressly set out in this Contract are the only warranties that the Supplier gives to the Customer in respect of the Website and the Design Services. All other warranties, representations or terms of equivalent effect that might be implied by the law are excluded to the

extent permitted by the law including any warranties relating to satisfactory quality or fitness for a particular purpose.

- 5.5 The Supplier shall have no liability to the Customer for any loss or damage arising from the Customer Materials or instructions supplied by the Customer which are incomplete, incorrect or inaccurate, illegible or arising from their late arrival or non-arrival, or any other fault of the Customer.

6. Intellectual Property Rights

- 6.1 All Intellectual Property Rights in the Deliverables shall be and remain the sole and exclusive property of the Supplier or, where applicable, any third party licensors. Subject to payment by the Customer of the Design Charges, the Supplier grants to the Customer a non-exclusive, non-transferable, perpetual licence to use the Deliverables in accordance with this Contract.

- 6.2 In respect of the licence granted in condition 6.1 the Customer agrees and acknowledges that:

6.2.1 it will not alter, adapt, reverse engineer or decompile the Deliverables except as permitted by law or by this Contract (if at all);

6.2.2 it will only make a reasonable number of copies of the Deliverables as is necessary for back up security and other purposes expressly permitted by this Contract;

6.2.3 it will only use the Deliverables for its own internal business purposes and/or for such other purposes as may be agreed by the parties in writing;

6.2.4 it will not make the Deliverables available to any third party without the Supplier's prior written consent and on such terms (including payment of further licence fees) as the Supplier may determine;

6.2.5 it will not remove, suppress or modify in any way any proprietary marking, including any trade mark or copyright notice, on or in the Deliverables and agrees to incorporate any such proprietary markings in any copies it makes of the Deliverables;

6.2.6 it will not at any time (whether during or after the termination of this Contract) use and/or exploit or allow any third party to use and/or exploit the Deliverables or any of the Supplier's Confidential Information for any purpose other than as expressly permitted by this Contract.

7. Payment

7.1 The Client shall pay the Design Charges and any other sums due in connection with the provision of the Design Services on the dates and in the amounts agreed between the parties. Where no times for payment are agreed the Supplier will invoice for the Design Services as follows:

7.1.1 for 50% of the Design Charges on the same day as the Supplier sends a Confirmation to the Customer and must be paid in full within 14 days; and

7.1.2 for the remaining 50% of the Design Charges upon completion of the Design Services or 60 days after the Supplier sends the Confirmation to the Customer (whichever is the sooner).

7.2 Without limiting any other right or remedy available to the Supplier, the Supplier may on giving seven (7) days written notice, refuse to provide the Design Services if the Customer:

7.2.1 fails to pay any sums due to the Supplier under this Contract; or

7.2.2 otherwise defaults in the due observance and performance of this Contract.

DOMAIN NAME SERVICES

1. The Supplier can provide domain name registration via a third party service.
2. The Customer agrees that registration of a domain name does not provide endorsement of the right to use the name. The Customer is responsible for ensuring they have due title to the domain name. The Supplier holds no liability and the Customer hereby agrees to indemnify and hold harmless the Supplier from any claim resulting from the Customer's registration of a domain name.
3. The domain name is registered in the Customer's own name, address and contact details. The Customer acknowledges that a domain name is registered with a third party and as such the Customer shall agree to fully abide by the terms and conditions set out by the third party for such services.
4. Customer agrees to take all legal responsibility for use of third party domain name services and supplies truthful details to the third party services.
5. The Customer agrees that information submitted for registration of domain names is then available the general public via the Nominet Whois system.
6. The Customer shall pay the Supplier in advance for any domain name registrations. Failure to comply with the payment terms may result in the Customer's domain name becoming available to another party and/or the web site and e-mail services becoming unavailable.
7. Any other domain name and hosting services or costs not included by the Supplier, including, but not limited to, further domain name registration fees, domain name transfer charges and yearly domain name renewals are to be paid by the Customer.
8. The Customer agrees that if at any time their contact details including e-mail address change, it is their responsibility to contact the third party and update their contact details. Failure to do so may mean that renewal invoices for the domain and hosting services are not received by the Customer.
9. The Customer agrees to be liable for their use of the domain name and hereby agrees to indemnify and hold harmless the Supplier from any claim

resulting from the Customer's publication of material and use of the domain name.

10. The Customer agrees to take full responsibility for all usage of the domain name and to fully abide by the terms and conditions set out by the third party for such services.

SEARCH ENGINE OPTIMISATION SERVICE ("SEO Service")

1. The SEO Service means the service provided by the Supplier on the Customer's behalf to maximise the Customer's website rankings with major search engines.
2. The charges for the SEO Service comprise an initial fee for (i) key word research on the page coding changes and (ii) initial off the page work, followed by a monthly fee. The Contract for the SEO Service shall commence on the date that the Supplier sends a Confirmation to the Customer and be for an initial period of six months. Following such initial period, the Contract for the SEO Service shall automatically continue in full force and effect for further periods of six months (**Extended Period**) unless and until terminated by either party giving a minimum of 1 months notice in writing to the other. For the avoidance of doubt, notice to terminate cannot expire until the initial period (or any Extended Period) has expired.
3. The initial fee referred to in condition 2 above will be invoiced on the same day as the Supplier sends a Confirmation to the Customer and must be paid in full within 14 days.
4. The Customer shall pay the Supplier the monthly fee referred to in condition 2 above monthly in advance by Direct Debit within 14 days of the date of the Supplier's invoice which shall be issued on the last working day of each month. Where the SEO Service is commenced prior to the date of issue of the first invoice hereunder, the Customer shall also be charged for any arrears that are due and payable.
5. The Supplier shall be entitled to terminate the provision of the SEO Service under this Contract in the event that the Customer's website contains any material which is, in the reasonable opinion of the Supplier, considered to

be obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights or any other law or regulation.

6. The Supplier will use its reasonable endeavours to obtain enhanced search engine positions for the Customer's key words or key word phrases. The Customer's website ranking with a particular search term will rely on both the relevancy of that term on the Customer's website pages, and the popularity of that term on other websites. The Supplier cannot in any way guarantee the position that will be obtained in any search engine result.
7. For the avoidance of doubt, the Supplier shall not be liable or be in any way responsible, for slipping, dropping out or unsatisfactory search engine ranking results, or if the Supplier's operational recommendations have not been adhered to.
8. The SEO Service will include a maximum of three keywords or keyword phrases per campaign and will be agreed with the Customer after the initial keyword/key phrase analysis by the Supplier. Any additional keywords or keyword phrases requested by the Customer will result in further or additional charges.
9. While the Supplier is providing the SEO Service, if any third party or parties have any access to the Customer's website source code such third party or third parties must not make any amendments without prior consultation with the Supplier. Any changes that are made without prior consultation may have a negative impact on the optimisation process and the Supplier will not be liable for any losses whatsoever suffered by the Customer as a direct or indirect result.
10. The SEO Service set up and updates require FTP access to the Customer's website.
11. The Customer agrees to provide the following:
 - 11.1.1 administrative/backend access to the Customer's website for the analysis of content and structure;

- 11.1.2 permission to make changes for the purpose of optimisation and to communicate directly with any third parties including, without limitation, the Customer's web designer if necessary;
 - 11.1.3 unlimited access to existing website traffic statistics for analysis and tracking purposes; and
 - 11.1.4 authorization and licence to use the Customer's pictures, logos, trademarks, web site images, pamphlets, or any other content whatsoever for any use as deemed necessary by the Supplier for search engine optimisation purposes and in providing the SEO Service.
12. If the Customer's website is lacking in textual content, the Customer will provide additional text content in electronic format for the purpose of creating additional or richer web pages. The Supplier can create site content at additional cost to the Customer. If the Customer is interested in purchasing content from the Supplier, please contact the Supplier for a cost estimate.
 13. The Customer acknowledges and agrees the following with respect to the SEO Service:
 - 13.1.1 all fees are non-refundable; and
 - 13.1.2 all fees, services, documents, recommendations, and reports are confidential.
 14. The Customer acknowledges and agrees that regular, fresh content added to the Customer's website will help to improve the stability of rankings within search engines such as Google and Yahoo and plays an important part of the success of the Customer's website and a failure to add unique content will lessen the impact of the SEO Service.
 15. The Supplier has no control over the policies of search engines with respect to the type of websites and/or content that they accept now or in the future. The Customer's website may be excluded from any directory or search engine at any time at the sole discretion of the search engine or directory.

16. Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, the Supplier does not guarantee number 1 position or consistent top 10 positions for any particular keyword, phrase, or search term.
17. Linking to “bad neighbourhoods” or obtaining links from “link farms” can seriously damage the SEO Service. The Supplier shall not be liable in any manner whatsoever for the Customer’s choice to link to or obtain a link from any particular website without prior consultation with the Supplier.
18. The Supplier will not make changes to the Customer’s website that knowingly will harm or negatively affect the Customer’s rankings in any way.
19. The Supplier will adhere to the webmaster guidelines created by Google. The Supplier may use the Customer’s name in the Supplier’s portfolio for prospective clients unless the Customer requests complete confidentiality.
20. The Customer warrants that any elements of text, graphics, photos, designs, trademarks, or other artwork provided to the Supplier for inclusion on the Customer’s website above are owned by the Customer, or that the Customer has received permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, indemnify and defend the Supplier and its subcontractors from any liability, suit, costs or expenses arising from the use of such elements.
21. The Supplier is not responsible for the Customer overwriting SEO work included in the Customer’s website and undertaken as part of the SEO Service. (e.g., the Customer/webmaster uploading over work already provided/optimized). The Customer will be charged an additional fee for re-constructing content.

PAY PER CLICK SERVICE (“PPC Service”)

1. The PPC Service means the service provided by the Supplier to manage the Customer’s pay per click campaigns with the search engines.
2. The charges for the PPC Service comprise an initial fee for setting up the search engine accounts and the initial campaigns, followed by a monthly fee. The Contract for the PPC Service shall commence on the date that the Supplier sends a Confirmation to the Customer and be for an initial period of 3 months. Following such initial period, the Contract for the PPC Service shall automatically continue in full force and effect for further periods of 3 months (**Extended Period**) unless and until terminated by either party giving a minimum of 1 months notice in writing to the other. For the avoidance of doubt, notice to terminate cannot expire until the initial period (or any Extended Period) has expired.
3. The initial fee referred to in condition 2 above, will be invoiced on the same day as the Supplier sends a Confirmation to the Customer and must be paid in full within 14 days and is non-refundable. The Company is not required to commence provision of the PPC Service until the initial fees are received in the form of cleared funds.
4. The Customer shall pay the Supplier the monthly fee referred to in condition 2 above, monthly in advance by Direct Debit within 14 days of the date of the Supplier’s invoice which shall be issued on the last working day of each month. Where the PPC Service is commenced prior to the date of issue of the first invoice hereunder, the Customer shall also be charged for any arrears that are due and payable.
5. The Customer shall pre-pay the Supplier money on account for all clicks purchased or to be purchased by the Supplier weekly or monthly in advance (whichever is agreed with the Customer) (**Prepayment**) in respect of the PPC Service. The Prepayment shall be made to the Supplier prior to the commencement of any campaign under the PPC Service. When each such Prepayment is exhausted then the campaign will be temporarily suspended pending the Supplier’s receipt of the next Prepayment from the Customer. The Customer shall pay to the Supplier monthly in arrears for

5% of the value of clicks purchased on the Customer's behalf during the previous month.

6. The Customer gives permission for the Supplier to create and or set up paid relevant accounts with search engines on behalf of the Customer, in order to fulfil its obligations in providing the PPC Service.
7. The Supplier makes no guarantee regarding the levels of impressions or clicks for any ad on the Customer's website or those of its partners and/or search engines. The Supplier may offer the same target to more than one advertiser. The Customer may not receive any impressions for its advertisement(s) if for a given target there are more advertisers than available display positions.
8. The Customer must inform the Supplier of any changes to the Customer's website that affects the Supplier's ability to fulfill its obligations under the PPC Service including, but not limited to, deletion or alteration or additions of URL addresses, URL redirects, landing pages and their content, conversion pages and their content and confirmation pages and their content.
9. The Supplier will provide the PPC Service with reasonable skill and care. Notwithstanding the previous sentence the Customer acknowledges that the Supplier has no direct control over the search engines and cannot guarantee the speed of performance of technologies provided by the search engines in relation to the delivery of the PPC Service.
10. PPC Service campaigns, where possible, will be set up by the Supplier. User name and passwords will remain the property of the Supplier. In the event of nonpayment of any fees or charges in respect of the PPC Service, campaigns may be turned off and any data created will be removed and retained.

MAINTENANCE AND SUPPORT SERVICES

1. Additional Definitions

Initial Period means the period of one year from the Maintenance Commencement Date;

Maintenance Charges mean the charges payable for provision of the Maintenance Services in accordance with these Conditions;

Maintenance

Commencement Date means the date on which the Supplier sends a Confirmation to the Customer for the provision of the Maintenance Services;

Maintenance Services the provision of the maintenance and support services for the Supported Equipment to be provided by the Supplier as set out in these Conditions and more fully described in condition 3.1 below;

Response Time the time between the Supplier receiving notification from the Customer of its requirement to invoke Maintenance Services from the Supplier for any Supported Equipment within Working Hours and the Supplier's initial step to correct problems or errors;

Supported Equipment hardware or software for which the Supplier has agreed to provide Maintenance Services;

Working Hours means between the hours of 9am and 5pm (UK Time) from Monday to Friday (inclusive).

2. Maintenance, Service, Support and Update Services

- 2.1. The Supplier agrees to provide the Maintenance Services with effect from the Maintenance Commencement Date.
- 2.2. The Supplier shall provide the Maintenance Services using its skill and care and in accordance with good industry practice.

3. Description of the Maintenance Services

- 3.1. The Supplier shall provide the following maintenance and support services to the Customer for the Supported Equipment in order to resolve or correct problems or errors:
 - 3.1.1. a help desk for routine telephone enquiries from the Customer, which it shall maintain during Working Hours and support by telephone, facsimile or email;
 - 3.1.2. access to an e-mail, telephone and fax number for urgent problems, so that the Customer can leave a message for a representative of the Supplier at any time outside the Working Hours;
 - 3.1.3. on-line or remote support will be provided by the Supplier if so required by the Customer and where appropriate, in the event that telephone, fax or email support does not resolve a problem with the Supported Equipment; and
 - 3.1.4. attendance at the Customer's in accordance with condition 6.1 below.
- 3.2. The Supplier shall recommend and the Customer shall maintain at its own expense all necessary remote access and communications links as amended from time to time by the Supplier to enable the Supported Equipment to be supported by the Supplier.
- 3.3. The Supplier shall not be required to perform any of the following services as part of the Maintenance Services (however, the Supplier may,

at its sole discretion, provide these services at additional cost to the Customer):

- 3.3.1. support of hardware or applications other than the Supported Equipment;
- 3.3.2. rectification of lost or corrupted data arising for any reason;
- 3.3.3. services rendered materially more time consuming because of any support, maintenance, changes, alterations, additions, modifications or variations to the Supported Equipment or hardware system or operating environment on which it is located made by any person other than the Supplier;
- 3.3.4. diagnosis and/or rectification of problems not associated with the Supported Equipment;

4. Response Times

- 4.1. Where the Customer becomes aware of any problem which has arisen with the Supported Equipment, or notifies the Supplier of any Maintenance Services required to be performed by the Supplier, the Customer shall use reasonable endeavours to submit sufficient information about the matter which has arisen to enable the Supplier's support staff to locate and identify the matter, and to perform all applicable maintenance services.
- 4.2. Upon receipt of such information, the Supplier shall forthwith give the Customer an indication of the severity of the maintenance issue, and the estimated time required to perform the Maintenance Services, including the amount of labour required, and the time when it will be able to commence work on the Maintenance Services. Upon the Supplier's receipt of any report from the Customer of a problem that has arisen with

the Supported Equipment, the Supplier shall take corrective action so as to provide the responses in condition 7.2 below and an appropriate upgrade and/or other remedy for the reported problem, all pursuant to the following time schedule set out in condition 7.2 below.

5. Maintenance Charges

- 5.1. The Maintenance Charges are payable monthly in advance with effect from the Maintenance Commencement Date. Such charges shall be payable from the Maintenance Commencement Date by the Customer monthly in advance by Direct Debit within 14 days of the date of the Supplier's invoice which shall be issued on the last working day of each month.
- 5.2. The Supplier reserves the right to increase the monthly charge if any changes are made to the Supported Equipment.
- 5.3. The costs of any additional hardware or software required by the Supplier to provide Maintenance Services are not covered by the Maintenance Charges.

6. Customer on-site approval and instructions for Supplier support

- 6.1. Where the Customer reasonably considers onsite attendance to be necessary it shall request a representative of the Supplier to attend onsite within 24 Working Hours of the request being received. The Customer hereby approves the entry of the Supplier's support staff to the Customer's office location(s) for the purposes of performing the Maintenance Services. Onsite attendance shall be charged at the Supplier's then current rate for onsite visits.
- 6.2. Where condition 6.1 of these conditions apply, the Supplier's support staff will follow the Customer's safety, security and confidentiality instructions advised to such staff.

7. Term of the Maintenance Services

7.1. The Contract for the Maintenance Services shall be provided by the Supplier for the Initial Period, unless terminated earlier under Part A above. Following the Initial period, the Contract for the Maintenance Services shall automatically continue in full force and effect for further periods of twelve months (Extended Period) unless and until terminated by either party giving a minimum of 3 months notice in writing to the other. For the avoidance of doubt, notice to terminate cannot expire until the Initial Period (or any Extended Period) has expired.

If the Maintenance Services are terminated, the Supplier will not be responsible for the provision of any of the Maintenance Services.

7.2 Response Times

Severity Level of problem, bug or error	The Supplier's response time
1/Severe Impact	Within 8 Working Hours
2/Degraded Operations	Within 16 Working Hours
3/Minimal Impact	Within 32 Working Hours

The Supplier shall use all reasonable endeavours to comply with the response and remedy times stated in the above table.

The problems/bugs/errors are classified by the Customer with the following severity levels:

1/Severe Impact: Errors which disable major functions from being performed.

2/Degraded Operations: Errors disabling only certain non-essential functions.

3/Minimal Impact: All other errors.

7.3 The hourly rates quoted for IT Maintenance and Support Service have the following minimum chargeable time periods:

Telephone and Email support – no minimum

Remote Support – 30 minutes minimum

On-site support – 1 hour minimum

Travelling time is chargeable at the normal hourly rate unless a flat fee is agreed in writing by the Supplier in advance.

ESCROW ARRANGEMENTS

1. Additional Definitions

Escrow Agent the Supplier's solicitors or such other agent as shall be appointed by the Supplier from time to time.

Material means the Source Code of the Software (including updates and upgrades thereto and new versions thereof) to be deposited in accordance with condition 2 below.

Release Purpose means the purposes of understanding, maintaining modifying and correcting the Software exclusively for and on behalf of the Customer and for such purposes as are permitted under the Contract.

Software the Click HQ software and (where necessary) the Click HQ Customer Website (both as defined in the Click HQ Services section above).

Source Code a version of the Software code in such eye readable form that it can be compiled or interpreted into equivalent object code.

2. Supplier's Duties

2.1 The Supplier shall deliver to the Escrow Agent (i) a copy of the Material, and (ii) a further copy of the Material each time that there is a material change to the Software.

2.2 The Supplier shall procure that the Escrow Agent shall release the Material to the Customer if (i) an order is made for the winding up of the Supplier, (ii) the Supplier passes a resolution for winding up (other than for the purposes of a solvent reconstruction or amalgamation), (iii) a liquidator of the Supplier is appointed, or (iv) the Supplier ceases to carry on its business.

3. Customer's Duties

3.1 In the event that the Material is released under clause 2 above, the Customer shall:

3.1.1 keep the Material confidential,

3.1.2 only use the Material for the Release Purpose;

3.1.3 not disclose the Material to any person save to such of its employees or contractors who need to know that the same for the Release Purpose. In the event that the Material is disclosed to its employees or contractors, the Customer shall ensure that they are bound by the same confidentiality obligations as are contained in this condition 3;

3.1.4 hold all media containing the Material in a safe and secure environment when not in use;

- 3.1.5 destroy the Material should the Customer cease to be entitled to use the Material under this Contract; and
- 3.1.6 obtain any necessary licences or consents to use the object code of any third party materials required to access, install, build, compile or otherwise use the Material.

We refer to our Conditions printed above. We hereby confirm and agree to specifically amend our Conditions on the terms set out below:

- 1.
- 2.
- 3.

Save in respect of the above Amendments, all other provisions contained in our Conditions shall continue to apply and be fully effective.

Signed by

For and on behalf of Click Innovation Limited

Signed by

For and on behalf of the Customer