

Dentsu UK Non-Media Standard Terms and Conditions

THESE TERMS AND CONDITIONS apply between Dentsu UK Limited, registered number 01939690, whose registered office is at 10 Triton Street, Regents Place, London NW1 3BF (“**we**”, “**us**”, “**our**”); and the party named on the Order (“**Client**”, “**you**”, “**your**”).

1 DEFINITIONS AND INTERPRETATION

1.1 In these terms and conditions the following words and expressions shall have the meaning given them below, unless the context requires otherwise:

Agreement means an Order, together with these terms and conditions, and any other document you and we agree is incorporated therein;

Applicable Law means:

- (i) any and all laws, statutes, regulations, by-laws, orders, ordinances and court decrees that apply to the performance and supply of the Services or the processing of Client Personal Data, and
- (ii) the terms and conditions of any applicable approvals, consents, exemptions, filings, licences, authorities, permits, registrations or waivers issued or granted by, or any binding requirement, instruction, direction or order of, any applicable government department, authority or agency having jurisdiction in respect of that matter;

Break Date means a date (if any) specified on an Order, on which you or us may terminate this Agreement for any reason (or for no reason) subject to the service of prior written notice set forth on the Order;

Click means where a Person presses down and releases a mouse (or similar) button such that an electronic link to a Website is activated; and ‘Clicked’ shall be construed accordingly;

Client Content means all advertisements and/or other marketing materials (including, but not limited to, trademarks, graphic designs, sound production, video, software, data, and marketing strategy documents) you supply to us or that is otherwise published by you, us, or any third party acting on your behalf in connection with the Services, and any content on the Websites;

Client Personal Data means personal data provided or made available to us, or collected or created for you, in connection with the Services as described in more detail in a Data Protection Record;

Confidential Information means know-how, media plans, negotiated rates or price arrangements with third parties, marketing surveys and data, marketing research information, and other data pertaining to the other party’s affairs, business, products, services, method of carrying on business, including all documentation that may become available to it in the operation of this Agreement;

Commencement Date means the date the Order takes effect, as set forth therein;

Contract Period means the term of this Agreement, as set forth on the Order or otherwise agreed between you and us;

Contract Year means a one year period commencing on the Commencement Date or an anniversary thereof;

Data Protection Legislation means all Applicable Laws and codes of practice applicable to the processing of personal data including the GDPR;

Data Protection Record means the record that must be completed if the Services involves processing of Client Personal Data. Such record is available from us in such event;

DP Losses means all liabilities, including all:

- (i) costs (including legal costs), claims, demands, actions, settlements, ex-gratia payments, charges, procedures, expenses, losses and damages (including relating to material and non-material damage); and
- (ii) to the extent permitted by Applicable Law: (i) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a court or regulatory authority; (ii) compensation to a data subject ordered by a court or regulatory authority; and (iii) the costs of compliance with investigations by a regulatory authority;

Fee means the charges for the Services as set out on the Order;

Financial Promotion means any of your advertising that comprises or includes an invitation or inducement to engage in investment activity (as those terms are from time to time interpreted for the purposes of the FSMA);

FSMA means the Financial Services and Markets Act 2000 together with any rules, orders, regulations, codes of practice and delegated legislation made thereunder from time to time;

GDPR means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as applicable as of 25 May 2018, as may be amended from time to time. “**controller**”, “**data subject**”, “**personal data**”, “**processing**” and “**processor**” have the meanings set out in the GDPR (and related terms such as “**process**” have corresponding meanings);

Group means, collectively, the relevant party, and the holding company, and all subsidiaries of such party, and all subsidiaries of such subsidiaries and of the holding company. The terms “**subsidiary**” and “**holding company**” shall be as defined by the Companies Act 2006;

Intellectual Property Rights means any copyright, extended or revived copyright, design right, registered design right, patent, performer’s property right, trade mark, database right or any similar right exercisable in any part of the world, including any application for registration of any patent, trade mark, registered design or similar registerable rights in any part of the world;

Keyword means a specific word or combination of words, that, when entered into a search engine facility, results in a list of links to relevant or related websites;

Loss means any loss, damage, costs, or expenses payable by us to any third party, in connection with or arising out of the Services or third party terms and conditions, save to the extent that such Loss has been caused by our act or omission. We will obtain the relevant third party terms and conditions (subject to any confidentiality obligations) for you to review if you request;

Order means any project plan, letter agreement, statement of work (or other agreement), approved by you or agreed between you and us in writing, by email, or other means, and also any brief or instruction you issue to us, in response to which, we provide services to you;

Person means any legal entity, including any private individual, company or corporate body;

Processing Instructions has the meaning set out in clause 7.5(a) of this Agreement;

Security Incident means the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to, Client Personal Data while in the custody of us or a Sub-Processor;

Services means the services we agree to provide to you, as set forth in any Order or as otherwise agreed between you and us, save for any services provided under a separate services agreement or other similar agreement between us;

Sub-Processor means another processor engaged by us for carrying out processing activities in respect of the Client Personal Data on behalf of you;

Third Party Costs means the amounts paid or payable by us to third parties in respect of any goods, services, tools, or software we procure for you as part of or in connection with the Services; and

Website means a website you own and / or control, in respect of which we provide the Services.

- 1.2 References to ‘clauses’ are references to clauses to (or of) these terms and conditions, and references to these terms and conditions includes all of their clauses.
- 1.3 References to any agreement, deed or other instrument, or any applicable laws, statutes, statutory instruments, regulations, non-statutory codes of practice, or guidelines (or any provisions thereof) is to include any prior or subsequent amendments, versions or re-enactments thereof.
- 1.4 All headings in these terms and conditions are for ease of reference only and shall not affect the interpretation of any terms and conditions herein.
- 1.5 In this Agreement (including these terms and conditions), references to “**liability**”, or “**liable**” are references to liability arising out of or in connection with this Agreement, whether in contract, tort (including negligence), statutory duty, or otherwise.
- 1.6 In these terms and conditions or in any Order, references to disputes concerning your obligation to pay an amount to us, shall refer to a dispute you raise or have raised, where the allegation or fact on which your dispute is based would, if found to be true and correct, provide you with grounds at law or under this Agreement, to withhold payment from us or would otherwise mean you had no such payment obligation to us, with this Agreement prevailing over applicable law in the event of conflict therewith, unless such prevalence is prohibited at law in

which case the relevant applicable law shall prevail. Any reference to an undisputed amount shall be a reference to an amount that is not subject to a dispute described by this clause 1.6.

- 1.7 References to the singular shall include the plural and vice versa.
- 1.8 In these terms and conditions, the words 'including' and 'includes' shall be construed so as to mean 'including without limitation', and 'includes without limitation' respectively.

2 SERVICES

We shall provide the Services to you, and all Services we provide to you shall be subject to these terms and conditions and any terms and conditions set forth on any Order. You warrant and represent that we will be your sole provider of the Services (or substantially similar services) during the Contract Period.

3 CONSIDERATION

- 3.1 You shall pay us:
 - 3.1.1 the Fee;
 - 3.1.2 any Third Party Costs (save where the Order expressly states such costs are included in the Fee);
 - 3.1.3 any other amounts set forth in the Order including amounts agreed in respect of any Services we provide that are not set forth on the Order; and
 - 3.1.4 any other amounts agreed between you and us from time to time.
- 3.2 All prices and consideration set forth herein are exclusive of VAT, which we will add to invoices where applicable.

4 PAYMENT DUE DATES

- 4.1 Subject to earlier payment being required pursuant to clause 4.6 below, you shall pay all invoices no later than 30 days following the invoice date.
- 4.2 If we do not receive payment for any invoices on or before the relevant due date set forth in clause 4.1 above, we reserve the right to suspend providing all Services (and any other services we provide to you under any other agreements in effect between you and us) without notice until we receive all such outstanding amounts in full and in cleared funds, whereupon we shall resume providing the Services without unreasonable delay. We shall not be liable to reimburse you for any losses, damages, costs, or expenses (whatsoever, or howsoever caused) you suffer in connection with such suspension, including in the event that, once you have paid all outstanding amounts, we are then unable to procure any relevant service from our third-parties or implement the relevant Order, in which case we shall not be deemed to be in breach of this Agreement in any way. You will reimburse us in full for any charges, costs, or expenses (including from third party service providers) we incur in connection with such delayed or non-payment.
- 4.3 If payment is not received by the payment due dates, we reserve the right to charge you interest at the rate of 4% per annum above HSBC plc Base Rate from time to time on any unpaid balance until payment in full is made and interest will be calculated on a daily basis.
- 4.4 In the event that a third party provider from whom we have procured services or tools in connection with the Services cancels any contract or services due to your acts or omissions, or the acts or omissions of any of your employees, agents, consultant or other third parties, you shall pay us the Fee for such service or tool as if it had not been cancelled, together with any Third Party Costs or other charges we incur in respect of such services or tool, or the cancellation thereof.
- 4.5 As part of our commitment to maximising value we rigorously pursue compensation complaints for issues affecting our clients which arise with third party providers contracted to us in connection with the Services, however we give no guarantee as to the outcome of such negotiations and you must pay in full and by the due date for any Services and Third Party Costs, regardless of any subsequent compensation achieved.
- 4.6 We routinely arrange insurance against our client's non-payment or delayed payment of amounts due and payable to us under our agreements with such clients. We will seek to arrange this insurance in respect of your payment liabilities to us. Where, for any reason this insurance cover is either refused, withdrawn, revised or inadequate to cover your liabilities, we shall be entitled to:
 - 4.6.1 require: (i) payment (in cleared funds) in advance of providing any Services; or (ii) you to arrange for suitable financial guarantees to be granted to us that are (at our sole discretion) sufficient to meet your liabilities to us; and

- 4.6.2 without incurring further liability on our part: (i) cancel third party services that have not yet been provided; (ii) automatically suspend all of our obligations in relation to the provision of Services and committing to other expenditure under this Agreement or any other agreements we have with you; and/or (iii) terminate this Agreement forthwith upon written notice to you. We shall not be responsible for any losses or additional costs you incur as a result of us exercising any of our rights or remedies available under this clause 4.6 or otherwise available at law.
- 4.7 In the event that we agree to provide credit or other payment terms not set forth in clause 4.6.1 above, despite credit insurance cover being refused, revised, or withdrawn, such payment terms and / or credit shall be provided at our sole discretion, and we reserve the right to withdraw such payment or credit terms at any time, and without notice. Our granting of such payment or credit terms contemplated in this clause 4.7 shall not constitute a waiver of any of our rights or remedies set forth in clause 4.6.1 above.
- 4.8 You may not withhold payment of any invoice or other amount due to us by reason of any right of set-off or counterclaim which you may have or allege to have for any reason whatsoever.
- 4.9 In the event that you wish to dispute any amount we have invoiced to you, you shall do so in writing within 10 days of the invoice date according to clause 4.2 above. We and you shall work together in good faith to promptly resolve such dispute. Any invoices not disputed in accordance with this clause 4.9 shall be deemed accepted by you, and shall be paid in accordance with clause 4.2 above.

5 LIABILITY

- 5.1 We shall not be liable for any delay in or omission of publication or transmission or any error in any advertisement, save where the same results from our negligence or default.
- 5.2 Third party suppliers have their own terms and conditions (“**T&Cs**”), and you will abide by such T&Cs on our behalf as if you were the buying party under those T&Cs. The T&Cs will apply to this Agreement in respect of the services provided by such third parties, and shall prevail in the event of any conflict with this Agreement. Our liability to you shall not exceed the amount we receive from the relevant third party in compensation for any loss, damage, cost, or expense you suffer in connection with their acts, omissions, breach, negligence, or default or any other loss or damage arising out of or in connection with the services procured from any such third party, save to the extent that we are at fault. You shall reimburse us in full for any Loss we incur in respect of your acts or omissions, breach, or default. We will obtain the relevant T&Cs for you to review if you request.
- 5.3 If we fail to comply with any obligation contained in this Agreement (including these terms and conditions) due to war, strikes, industrial action short of a strike, lock outs, fire, blockade, import or export embargo, natural catastrophes or other obstacles over which we have no reasonable control, we shall not be held responsible for any loss or damage you incur as a result of such failure, and we shall not be deemed to be in breach of such obligation or this Agreement.
- 5.4 Nothing in these terms and conditions or this Agreement shall limit either party’s liability to the other party for fraudulent misrepresentation or death or personal (physical) injury resulting from its negligence or the negligence of anyone for whom it is vicariously liable under the laws of England and Wales.
- 5.5 Subject to the provisions of clause 5.4 above:
- 5.5.1 our total aggregate liability to you under this Agreement shall be limited to the lesser of: (i) the amount of the Fee paid by you to us for Services provided during the relevant Contract Year; or (ii) the total amount already paid by you to us for the Services during this Agreement up to the date on which the event giving rise to the claim. For the avoidance of doubt, “consideration” in this clause 5.5.1 excludes amounts paid or payable by us to third parties, including, but not limited to, Affiliates, and Affiliate network operators; and
- 5.5.2 we shall not be liable to you under this Agreement for any loss of actual or anticipated income, profits, business, or contracts or for any special, indirect or consequential loss or damage of any kind howsoever arising and whether in tort (including negligence), contract, breach of statutory duty, or otherwise, whether or not such loss or damage is foreseeable, foreseen or known.
- 5.6 You will abide by all regulations and rulings of the Advertising Standards Authority, the British Code of Advertising and any other codes of advertising standards laid down, in order to ensure that all advertising or other Client Content we place, distribute, publish in connection with the Services or any services provided by third parties (such as blog posts) complies in all respects with all relevant laws and shall be decent, honest and truthful.
- 5.7 All briefs and instructions you give us shall be clear, and shall contain all relevant facts about a product or service, such briefs shall be accurate and in no way misleading and you will provide us with factual evidence in respect of

product or advertising claims if so requested in order to satisfy any appropriate authority (e.g. the ASA or the BACC on behalf of Ofcom).

5.8 You warrant that:

5.8.1 Client Content shall not:

- (a) be false or misleading, indecent, libellous, or unlawful;
- (b) shall not contain any Financial Promotion as defined in the FSMA;
- (c) infringe or violate any intellectual property rights of any third party; and
- (d) harm or adversely affect the operation of the website, computer network or other equipment of any third party and/or media owner.

5.8.2 all Websites include a privacy policy that complies with applicable privacy and data protection legislation.

5.9 You shall indemnify us against loss, damage, costs or expenses arising from any claims (whether formal or otherwise), suits, or proceedings resulting from or in connection with any Client Content, save to the extent that such loss or damage has arisen due to our use of the Client Content: (i) in breach of this Agreement, (ii) against your explicit instruction, or (iii) other than as permitted by you or this Agreement, and you shall also indemnify us against all claims, suit or proceedings resulting from or in connection with your breach of your obligations or warranties under this Agreement.

5.10 You hereby acknowledge that: (i) the placement of Client Content may be subject to a media owner or other third party terms and you hereby consent to abide by those terms in order that the Services may be delivered.

5.11 We shall not act as data controller in relation to any personally identifiable information transferred by you to us.

5.12 You shall reimburse us for any late copy charges, or, media cancellation charges imposed on us as a result of your requirements, actions or instructions or as a result of the contents of advertising materials provided.

5.13 We shall provide the Services using reasonable care and skill, however makes no warranty (whether express or implied, direct or indirect) in connection with the Services or this Agreement.

5.14 We shall not incur any liability in connection with any of your advertising, products or services, and / or any contracts between you and any third party, and (save where we are at fault) you shall hold us harmless in respect of any claims by such third party, and shall indemnify us in full against any loss, damage, cost, and expense, we incur in as a result of any such claims.

5.15 Where we agree to provide you with forecasts in relation to the performance of Services, we shall use reasonable care in the preparation of such forecasts; such forecasts may include, without limitation:

- (a) the expected volume of visitors to a Website; and / or
- (b) a Website's position in the natural search results on a search engine,

however, these are matters which are ultimately beyond our control. We give no warranties as to the accuracy of forecasts or as to the figure actually occurring and no liability shall attach to it in respect of any losses you or any third party suffers in connection with your reliance on such forecasts.

6 APPROVALS AND AUTHORITY

6.1 Both parties hereby agree that we shall not be liable to you in the event that any delay by (or caused by) you prevents us from providing any of the Services.

6.2 We will comply with any requests you make to amend or cancel contracts entered into on your behalf provided that such alteration is permissible within the terms of such contracts, and provided that you shall indemnify us for all loss and damage, claims, proceedings, charges or expenses that arise as a result of such amendment or cancellation, including retrospective rate adjustments, cancellation charges or lower discounts from third parties; you will be required to reimburse us for any such additional expenses and costs incurred during and after the termination of this Agreement and compensate us as provided under clause 4.5 above.

6.3 We may sub-contract to specialist operations within our Group and to associated operations as necessary for the performance of this Agreement, but notwithstanding any sub-contracting we shall remain liable for any act or omission of any such sub-contractor.

- 6.4 Where we agree to liaise with your nominated agents or third parties in connection with the Services, you shall be ultimately responsible for the acts or omissions of such agents or third parties and their compliance with requests for information and/or assistance we make in order to fulfil our obligations set out herein.
- 6.5 You hereby grant us with a non-exclusive, royalty free licence to use the Client Content and any other material provided by you or on your behalf, to the extent necessary to allow us to perform the Services, which shall include the right to sub-licence the same to third parties and sub-contractors in connection with the performance of any part of the Services, including without limitation for the purpose of seeding, posting, distributing or displaying Client Content or other material, or inserting or procuring the placement of links.

7 DATA PROTECTION

- 7.1 If the Services involve processing of Client Personal Data, the parties will ensure that a Data Protection Record is completed before such processing commences and the provisions of this clause 7 shall apply.
- 7.2 In respect of any processing of Client Personal Data carried out, the parties agree that we are the processor and that you are the controller.
- 7.3 The parties shall comply with and process all Client Personal Data in accordance with applicable Data Protection Legislation.
- 7.4 A Data Protection Record:
- (a) describes the processing of Client Personal Data permitted in connection with this Agreement;
 - (b) lists the Sub-Processors (if any) who you agrees may process Client Personal Data; and
 - (c) sets out the circumstances (if any) in which you agree Client Personal Data may be disclosed to a country outside the European Economic Area.
- 7.5 We shall:
- (a) unless Applicable Law requires otherwise, only process Client Personal Data on and in accordance with your documented instructions as set out in this Agreement or otherwise in writing ("**Processing Instructions**");
 - (b) unless prohibited by Applicable Law, notify you if Applicable Law requires us to process Client Personal Data other than in accordance with Processing Instructions (such notification to be given before such processing commences); and
 - (c) notify you if, in our opinion, the processing of Client Personal Data in accordance with Processing Instructions infringes Data Protection Legislation.
- 7.6 We shall not permit any Sub-Processor to process Client Personal Data without:
- (a) your prior written approval (not to be unreasonably withheld, conditioned or delayed) (such approval having already been provided in respect of those Sub-Processors listed in a Data Protection Record); and
 - (b) entering into a contract which binds the Sub-Processor to substantially similar obligations with respect to the processing of Client Personal Data as to which we are bound by this Agreement, and
- we agree that if a Sub-Processor fails to fulfil its obligations under the contract required by clause 7.6(b) of this Agreement we shall remain fully liable to you for the Sub-Processor's performance.
- 7.7 After the business purposes for which Client Personal Data was processed have been fulfilled (or earlier upon your written request) we shall, at the your option, either delete or return all Client Personal Data and delete any existing copies of the same (unless storage of such copies is required by Applicable Law).
- 7.8 You warrant and represent that:
- (a) the processing of Client Personal Data by you will be carried out in accordance with Data Protection Legislation;
 - (b) we are entitled to process Client Personal Data pursuant to this Agreement for the purpose of providing the Services and such use will comply with Data Protection Legislation;
 - (c) all Client Personal Data provided by us to you is necessary, accurate and up-to-date;
 - (d) all Processing Instructions shall at all times be in accordance with Data Protection Legislation; and

- (e) it is satisfied that: (i) our processing operations are suitable for the purposes for which you propose to use the Services and engage us to process Client Personal Data; and (ii) we have sufficient expertise, reliability and resources to implement technical and organisational measures that meet the requirements of Data Protection Legislation.

7.9 We shall, without undue delay, notify you if:

- (a) we become aware of a Security Incident; or
- (b) we receive a request from or on behalf of a data subject of Client Personal Data to exercise any of the rights given to data subjects by Data Protection Legislation.

7.10 We shall (at your expense) provide such further information and assistance as you reasonably require in handling and responding to such notifications in accordance with its obligations under Data Protection Legislation.

7.11 Subject to reasonable written advance notice from the you, we shall:

- (a) permit you to conduct (and shall contribute to) audits and inspections of our systems and processes in relation to the processing of Client Personal Data subject to you ensuring: (i) that such audit or inspection is undertaken during normal business hours and with minimal disruption to our business and the business of other clients of us; and (ii) that all information obtained or generated by you or your auditor(s) in connection with such audits and inspections is kept strictly confidential (save for disclosure to a regulatory authority or as otherwise required by Applicable Law);
- (b) give you such information as is reasonably necessary to verify that we are in compliance with its obligations under Data Protection Legislation; and
- (c) co-operate and assist you with any data protection impact assessments and consultations with any regulatory authority that you reasonably consider are relevant pursuant to Data Protection Legislation in relation to the Client Personal Data.

7.12 The cost of such audit, inspection, provision of information or data protection impact assessment shall be borne by you.

7.13 You may require us to conduct an audit or inspection of the Sub-Processor's systems and processes in relation to the processing of Client Personal Data. The cost of such an audit or inspection shall be borne by you.

7.14 You shall indemnify and keep indemnified us in respect of all DP Losses suffered or incurred by, awarded against or agreed to be paid by, us and any Sub-Processor arising from or in connection with any:

- (a) non-compliance by you with Data Protection Legislation;
- (b) processing carried out by us or any Sub-Processor pursuant to any Processing Instruction that infringes Data Protection Legislation; or
- (c) breach by you of any of its obligations under this Agreement,

except to the extent that the Agency is liable under clause 7.15.

7.15 Subject to clause 5 and clause 7.14, we shall indemnify you for DP Losses (howsoever arising, whether in contract, tort (including negligence) or otherwise) under or in connection with this Agreement:

- (a) only to the extent caused by the processing of Client Personal Data under this Agreement and directly resulting from the our breach of this Agreement; and
- (b) in no circumstances to the extent that any DP Losses (or the circumstances giving rise to them) are contributed to or caused by any breach of this Agreement by you.

8 CONFIDENTIALITY

8.1 Each party shall hold in strict confidence and not disclose, either directly or indirectly, to any third party any and all confidential information, know-how, media plans, negotiated media rates or price arrangements, marketing surveys and data, marketing research information, and other data pertaining to the other party's affairs, business, products, services, method of carrying on business, including all documentation that may become available to it in the operation of this Agreement, without the prior written authority of the other party both during the subsistence of this Agreement and thereafter. For the avoidance of doubt, "third party" shall not include any of our Group companies or associated companies to whom we may occasionally divulge information where necessary for the performance of this Agreement.

- 8.2 Either party may disclose the other party's Confidential Information if it is legally compelled to so by a court order, or by order of a regulatory authority, governing body or other competent authority, provided that unless prohibited at law, it has first notified the other party of the intended disclosure and the intended content of the disclosure, and given the other party a reasonable opportunity to review the relevant order with a view to challenging the requirement to disclose such Confidential Information, limiting the extent of the disclosure, and / or agreeing the time and date on which the disclosure will occur.
- 8.3 We acknowledge our responsibility to, during the term of this Agreement, treat in complete confidence all the marketing and sales information and statistics you supply to us in the course of our provision of the Services.
- 8.4 Obligations of confidentiality set forth in this clause 8 shall be in effect during the validity of this Agreement and for a five (5) year period following its termination. The parties will not use any such confidential information (as referred to in this clause 8) provided by the other party for any purpose other than to perform its obligations under this Agreement or disclose it to anyone other than its own employees.
- 8.5 You shall not, and shall not permit your group companies to, use a Media Schedule or any other plan, proposal, or other document we devise or draw up, in order to procure or buy media from a third-party, or obtain a quotation from a third-party, without first: (i) obtaining our written consent; and (ii) reaching an agreement with us as regards appropriate remuneration for us.
- 8.6 The provisions of clauses 8.1 to 8.4 above shall not apply to any information which: (i) is in the public domain other than by a breach of this clause 8; (ii) is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; (iii) is obtained from a third party who is lawfully authorised to disclose such information; or (iv) the receiving party can prove was independently developed by itself without the use of the disclosing party's confidential information.
- 8.7 We acknowledge your ownership of any materials you or your representatives provide to us in connection with this Agreement, and you acknowledge our ownership of any materials we or our representatives provide to you in performing this Agreement, and you hereby acknowledge that we provide and / or generate such materials strictly for the purpose of our provision of the Services to you and for no other purpose (unless subject to a specific written agreement between the parties to the contrary). Each party acknowledges that the other party's materials (including the information contained therein) are subject to the confidentiality and intellectual property rights provisions of this clause 8.
- 8.8 Both parties agree that, subject always to specific written agreement between the parties to the contrary, all copyrights, design rights, database rights, know-how and all other intellectual property rights of whatsoever nature which arise as a result of this Agreement shall belong to us absolutely and from the outset. Any express, de facto or implied licences we give to you to use any of our intellectual property rights (whether such intellectual property rights are pre-existing or arise as a result of this Agreement or otherwise) shall, in default of specific written agreement to the contrary, lapse forthwith upon the expiry of or termination of this Agreement for any reason.

9 NOTICES

Service of all notices which either party is required or may desire to give the other party hereunder shall be given by addressing the communication to the appropriate individual at that party's principal place of business or registered address (as applicable) and may be given by signed-for mail, courier, or personal delivery. Such notices shall be deemed served (i) on the date on which the notice is signed for if delivered by signed for mail or courier, or (ii) immediately if served personally.

10 TERM OF AGREEMENT

- 10.1 This Agreement shall commence on the Commencement Date and shall remain in force and effect for the entire Contract Period. Save as set forth in clauses 10.2 and 10.3 below, or as otherwise set forth in the Order, this Agreement may not be terminated by either party during the Contract Period. In addition to any other remedies available to us at law or under this Agreement, if this Agreement terminates during the Contract Period for any reason other than as expressly permitted by the Order you will be liable to pay us the Fee in respect of the remainder of the Contract Period together with any Third Party Costs we have committed to in relation to the Services, and you shall not be entitled to a refund of any Fees or Third Party Costs you have paid prior to termination.
- 10.2 If a Break Date is set out on an Order, either party may terminate an Order on such date, strictly provided notice is served in accordance with any terms set out on the Order, or if no notice period is specified on the Order, notice must be served in writing no later than 30 days prior to the Break Date. Time is of the essence in respect of the date by which notice must be served, and the length of the notice.

- 10.3 In addition to any termination rights set forth in the Order, either party may immediately terminate any Agreement by giving written notice to the other party if the other party commits any material breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice giving full particulars of the breach and requiring it to be remedied.
- 10.4 Upon termination of this Agreement for whatever reason, you shall pay to us all sums due in respect of Services performed and expenditure incurred or committed to by us up to the date of termination, and any cancellation fees, late copy charges, and other expenses we have incurred in connection with those Services.
- 10.5 For the purposes of clause 10.3 above, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance and time of performance is not of the essence in respect of any part of this Agreement.
- 10.6 may terminate this Agreement forthwith on providing written notice to you in the event that:
- 10.6.1 any invoices remain outstanding more than 30 days subsequent to the due date(s) thereof, except where such invoices are properly and validly disputed in good faith; or
- 10.6.2 you materially breach any other agreements in effect between you and us, or any provision thereof.

11 GENERAL

- 11.1 Each provision of this Agreement is severable and distinct from the others. Any provision of this Agreement that is or becomes void or unenforceable shall to the extent of such invalidity or unenforceability be deemed not to form part of this Agreement and shall not affect any other provision.
- 11.2 This Agreement shall not be assignable or transferable by either party to a third party without prior written consent of the other, and shall be binding upon the parties and their respective successors and permitted assigns. Notwithstanding the foregoing, we shall have the right to assign our rights under, and / or novate or otherwise transfer this Agreement to a member of our Group, upon written notice to you.
- 11.3 This Agreement (including any schedules, appendices and addenda thereto) is the entire agreement between us and you in respect of the Services (except fraudulent misrepresentations), or understandings between the parties.
- 11.4 These terms and conditions are supplemental to any Media Services Agreement or other agreement under which the Services are provided (if any). In the event of any inconsistency or conflict between the terms and conditions of any such agreement and these terms and conditions, these terms and conditions shall prevail.
- 11.5 You hereby represent and agree to each of the following: (i) you shall not purport or attempt to incorporate any terms and conditions, whether on a purchase order, an invoice, or otherwise in respect of or in connection with the Services ("**Client Terms**") into this Agreement or supersede this Agreement or any provisions thereof with any Client Terms; (ii) any Client Terms issued by you or on your behalf shall have no effect whatsoever, and are hereby excluded to the fullest extent, regardless of whether such Client Terms are provided prior to or subsequent to the date of the Order; (iii) any provisions of any Client Terms that state that such Client Terms prevail over or supersede any previous or other terms and conditions agreed between the parties, or would otherwise have the effect of superseding this Agreement are hereby excluded and shall have no effect whatsoever; and (iv) to the extent that Client Terms are deemed to have any effect, notwithstanding the provisions of this clause 11.5, the provisions of this Agreement shall prevail in the event of a conflict therewith.
- 11.6 Any and all rights conferred to third parties under the Contracts (Rights of Third Parties) Act 1999 are hereby excluded to the fullest extent permitted by law.
- 11.7 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the law of England and Wales and the Parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales in relation to all such matters.