

General Terms and Conditions of Business

1. INTERPRETATION

1.1 The following definitions and rules of interpretation apply in these Conditions.

"Av It Media" means 'Av It Media Limited registered in England and Wales with company number 11366346

"Av It Media's Materials" has the meaning set out in condition 4.1.6

"Business Day" a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business

"Charges" the charges payable by the Customer for the supply of the Services in accordance with condition 5

"Conditions" these terms and conditions as amended from time to time in accordance with condition 11.5

"Contract" the contract between 'Av It Media and the Customer for the supply of Services and includes these Conditions and the Quotation

"Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures" as defined in the Data Protection Legislation

"Customer" the person or firm who purchases Services from 'Av It Media

"Customer Default" has the meaning set out in condition 4.2

"Data Protection Legislation" the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications)

"Deliverables" the deliverables set out in the Order produced by 'Av It Media for the Customer

"Intellectual Property Rights" patents, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

"Order" the Customer's order for Services as set out overleaf

"Performance Dates" the dates on which 'Av It Media will perform the Services as detailed in the Quotation and/or the Order

"Permitted Purpose" means the permitted purposes detailed in the Quotation and/or the Order

"Quotation" 'Av It Media's quotation as detailed in the Order

"Services" the services, including the Deliverables, supplied by 'Av It Media to the Customer as set out in the Specification

"Specification" the description or specification of the Services provided as detailed in the Quotation and/or the Order

"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended

1.2 Interpretation:

1.2.1 a reference to a statute or statutory provision is a reference to it as amended or re-enacted.

1.2.2 any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3 Aa reference to writing or written includes email but not fax.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted on the earlier of:

2.2.1 'Av It Media issuing written acceptance of the Order; or

2.2.2 'Av IT Media commencing delivery of the Services,

at which point and on which date the Contract shall come into existence.

2.3 Any samples, drawings, descriptive matter or advertising issued by 'Av It Media, and any descriptions or illustrations contained in 'Av It Media's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are

- implied by trade, custom, practice or course of dealing.
- 2.5 Any quotation given by 'Av It Media shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue. In the event of conflict between the terms of the Quotation and the Order, the Order prevails.
3. **SUPPLY OF SERVICES**
- 3.1 'Av It Media shall use reasonable care and skill to supply the Services to the Customer in accordance with the Specification in all material respects and shall use all reasonable endeavours to meet any Performance Dates but any such dates shall be estimates only and time shall not be of the essence for performance of the Services. The Customer acknowledges that delivery of the Services may be affected by inclement weather in the event of which 'Av It Media may in its sole discretion reschedule delivery of the Services such re-arranged dates to be agreed with the Customer (agreement not unreasonably withheld or delayed).
- 3.2 'Av It Media reserves the right to amend the Specification if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and "Av It Media shall notify the Customer in any such event.
4. **CUSTOMER'S OBLIGATIONS**
- 4.1 The Customer shall:
- 4.1.1 ensure that the terms of the Quotation, the Order and any information it provides to 'Av IT Media is complete and accurate;
- 4.1.2 co-operate with 'Av It Media in all matters relating to the Services;
- 4.1.3 comply with all applicable laws (including health and safety)) and all 'Av It Media's reasonable directions;
- 4.1.4 provide 'Av It Media, its employees, agents, consultants and subcontractors, with such access to the Customer's premises and other facilities as they each may reasonably require;
- 4.1.5 prepare the Customer's premises for the supply of the Services and obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on delivery of the Services is to start;
- 4.1.6 keep all materials, equipment, documents and other property of 'Av It Media ("**Av It Media's Materials**") at the Customer's premises in safe custody and at its own risk until returned to 'Av It Media;

- 4.1.7 comply with any additional obligations as set out in the Quotation and/or Order;
- 4.1.8 not use the Deliverables other than for the Permitted Purpose(s);
- 4.1.9 not use, edit or modify the Deliverables in any manner that might reasonably be deemed detrimental to 'Av It Media's reputation and good standing.

4.2 If 'Av It Media's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):

- 4.2.1 without limiting or affecting any other right or remedy available to it, 'Av It Media shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays 'Av It Media's performance of any of its obligations;
- 4.2.2 'Av It Media shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from 'Av It Media's failure or delay to perform any of its obligations as set out in this condition 4.2; and
- 4.2.3 the Customer shall reimburse 'Av It Media on written demand for any costs or losses sustained or incurred by 'Av It Media arising directly or indirectly from the Customer Default.

5. **CHARGES AND PAYMENT**

The Charges for the Services shall, save as otherwise agreed in writing with the Customer or as detailed in this condition 5.1 be as detailed in the Quotation and/or the Order and shall include all expenses.

- 5.1.1 'Av It Media shall, in the event the Customer changes the Specification and/or the Performance Dates and/or the Services, be entitled to charge an overtime rate of 50% of 'Av It Media's then current daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in condition 5.1.2;
- 5.1.2 'Av It Media's daily fee rates for each individual are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days.

- 5.2 'Av It Media shall be entitled to invoice the Customer for the Charges on acceptance of the Order. The Customer shall, unless otherwise agreed in writing by 'Av It Media and subject to condition 5.3, pay each invoice submitted by 'Av It Media as to 50% within 5 Business Days of the date of the invoice and as to 50% on completion of the Services.
- 5.3 'Av It Media reserves the right to demand payment in full and prior to delivery of the Services where the Customer requires delivery of the Services at short notice.
- 5.4 Time for payment shall be of the essence of the Contract. Where payment is not received by 'Av It Media in accordance with the Contract 'Av It Media may cancel the Services and charge the Customer for all costs, liabilities and expenses incurred by 'Av It Media (including any costs or expenses to which 'Av It Media is committed in connection with the Services and any days on which the Services would otherwise have been delivered and in respect of which 'AV It Media is not reasonably able to fill with alternative customers).
- 5.5 If the Customer fails to make a payment due to 'Av It Media under the Contract by the due date, then, without limiting 'Av It Media's remedies under condition 9, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this condition 5.5 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 5.6 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
6. **INTELLECTUAL PROPERTY RIGHTS**
- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by 'Av It Media.
- 6.2 'Av It Media grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to use the Deliverables (excluding materials provided by the Customer) for the Permitted Purpose. The Customer shall not sub-license, assign or otherwise transfer the rights granted in this condition 6.2.
- 6.3 The Customer grants 'Av It Media a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by the Customer to 'Av It Media for the purpose of providing the Services to the Customer.

7. DATA PROTECTION

7.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This condition 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and 'Av It Media is the processor.

7.2 Without prejudice to the generality of condition 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to 'Av It Media for the duration and purposes of the Contract.

8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION.

8.1 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

- 8.1.1 death or personal injury caused by negligence;
- 8.1.2 fraud or fraudulent misrepresentation; and
- 8.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982.

8.2 Subject to condition 8.2, 'Av It Media's total liability to the Customer in respect of the Services shall be limited to the Charges.

8.3 'Av It Media shall not, subject to condition 8.1 be liable to the Customer for:

- 8.3.1 loss of profits
- 8.3.2 loss of sales or business.
- 8.3.3 loss of agreements or contracts.
- 8.3.4 loss of anticipated savings.
- 8.3.5 loss of use or corruption of software, data or information.
- 8.3.6 loss of or damage to goodwill.
- 8.3.7 indirect or consequential loss.

8.4 This condition 8 shall survive termination of the Contract.

9. RESCHEDULING & TERMINATION

9.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- 9.1.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10

- days of that party being notified in writing to do so;
- 9.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- 9.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 9.1.4 the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2 Without affecting any other right or remedy available to it, 'Av It Media may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 9.3 The Customer may terminate the Contract at any time in writing provided always that if the date of receipt of such notice by 'Av It Media:
- 9.3.1 is more than 30 days prior to the Performance Date 'Av It Media shall refund any Charges (or part thereof) already paid by the Customer;
- 9.3.2 is 30 days or less prior to the Performance Date 'Av It Media shall be entitled to payment of the Charges in full and
- 9.3.3 'Av It Media shall in any event be entitled to payment of any wasted costs incurred or for which it is liable in connection with the Services.
- 9.4 'Av It Media shall, in the event the Customer requests in writing to reschedule performance of the Services, use reasonable endeavours to accommodate such a request without additional cost to the Customer on one occasion only. 'Av It Media reserves the right to charge the Customer in accordance with condition 9.3 in the event the Customer requests to reschedule on more than one occasion.
10. **CONSEQUENCES OF TERMINATION**
- 10.1 On termination of the Contract:
- 10.1.1 the Customer shall immediately pay to 'Av It Media all of 'Av It Media's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, 'Av It Media shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- 10.1.2 the Customer shall return all of the 'Av It Media's Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then 'Av It Media may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 10.2 Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 10.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.
11. **GENERAL**
- 11.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control including inclement weather.
- 11.2 **Assignment and other dealings.** 'Av It Media may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of 'Av It Media.
- 11.3 **Confidentiality.** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by this condition.
- Each party may disclose the other party's confidential information:
- to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees,

officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this condition 11.3; and

as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

11.4 **Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in the Contract.

Nothing in this condition shall limit or exclude any liability for fraud.

11.5 **Variation.** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.6 **Waiver.** A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

11.7 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or

deletion of a provision or part-provision under this condition shall not affect the validity and enforceability of the rest of the Contract.

11.8 **Notices.** Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order.

Any notice shall be deemed to have been received:

if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and

if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; and

if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this condition 11.8.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

This condition does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

Third party rights. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

11.9 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

11.10 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.