

Terms of Business

1. Interpretation

- 1.1. The definitions and rules of interpretation in this clause apply in these Terms of Business (**Terms**).

Acceptance: the acceptance or deemed acceptance of the Site by the Customer pursuant to clause 4.

Acceptance Certificate: the email between the Supplier and the Customer mutually agreeing Acceptance.

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

Change Control Procedures: the procedures set out in 0.

Charges: the charges in respect of either (i) the Services or (ii) the Services and Hosting as agreed between the Parties.

Confidential Information: has the meaning given in clause 16.1.

Customer: the Party receiving the Services or Hosting as applicable supplied by the Supplier in accordance with these Terms.

Data Protection Legislation: the UK Data Protection Legislation and (for so long as and to the extent that the law of the European Union has legal effect in the UK) the General Data Protection Regulation ((EU) 2016/679) (GDPR) and any other directly applicable European Union regulation relating to privacy.

Data Subject: has the meaning set out in Article 4(1) of the GDPR.

Defect: a defect which arises after Acceptance where the Site is Hosted.

Effective Date: the date on which the Customer signs the Supplier Quote.

Force Majeure Event: has the meaning given in clause 15.

Hosting: means the provision of servers and any other technology and facilities by the Supplier to the Customer so that the Site is accessible on the Internet and Host and Hosted shall be interpreted accordingly.

Intellectual Property Rights: shall exclude software utilised under an open-source licence but shall otherwise include patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) 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.

Materials: the content provided to the Supplier by the Customer from time to time for incorporation in the Site.

Non-Supplier Defects: those defects described in clause 4.5.

Party: either Supplier or Customer and Parties shall mean both together.

Phase: one of the key phases of work identified in the Project Plan.

Personal Data: has the meaning set out in Article 4(1) of the GDPR.

Personal Data Breach: has the meaning set out in Article 4(12) of the GDPR.

Project: the provision by the Supplier of the Scope as agreed between the Parties.

Project Plan: the top-level timetable within which the Supplier will implement the Project as agreed between the Parties.

Scope: the Project scope agreed between the Parties.

Server: a high-performance computer server administered by the Supplier, as agreed between the Parties.

Service Levels: the service levels applicable to Hosting as set out in 0.

Services: the design and development services to be provided pursuant to these Terms including the Site but excluding Hosting.

Site: the website designed and developed by the Supplier on behalf of the Customer.

Site Software: the software for the Site commissioned by the Customer as agreed between the Parties.

Site Specification: the specification for the Site as agreed between the Parties.

Supplier: Spindogs Limited, a private limited company incorporated and registered in England and Wales with company number 07035713 whose registered office is at Pascoe House, 54 Bute Street, Cardiff, CF10 5AF and the supplier of Services and Hosting as applicable under these Terms.

Supplier Defects: those defects described in clause 4.4.

Supplier Quote: the quote provided by the Supplier to the Customer which binds both the Supplier and Customer to these Terms upon signature by Customer.

Third Party Products: those third party software products as notified by the Supplier to the Customer.

UK Data Protection Legislation: any data protection legislation from time to time in force in the UK including the Data Protection Act 1998 or 2018 or any successor legislation.

Visitor: a visitor to the Site.

1.2. Clause and schedule headings do not affect the interpretation of these Terms.

1.3. References to clauses and schedules are (unless otherwise provided) references to the clauses and schedules of these Terms.



- 1.4. If there is an inconsistency between any of the provisions in the main body of these Terms and the Schedules, the provisions in the main body of these Terms shall prevail.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, include the singular.
- 1.6. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.7. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time.
- 1.8. 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.
- 1.9. References to **content** include any kind of text, information, images, or audio or video material which can be incorporated in a website for access by a Visitor to that website.

2. Scope of the project

- 2.1. The Supplier shall design, develop and deliver the Project in Phases in accordance with the Project Plan with respect to either (a) or (b) as follows:
 - a. the Services; or
 - b. the Services and Hosting.

3. Customer Responsibilities

- 3.1. The Customer acknowledges that the Supplier's ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of any information and data the Customer provides to the Supplier. Accordingly, the Customer shall:



- a. provide the Supplier with access to, and use of, all information, data and documentation reasonably required by the Supplier for the performance by the Supplier of its obligations under these Terms; and
- 3.2. The Customer shall be responsible for the accuracy and completeness of the Materials on the Site in accordance with clause 11.

4. Development and acceptance of site

- 4.1. Once the Supplier has completed design and development of the Site in accordance with of the Project Plan, the Supplier shall invite the Customer to attend Acceptance Tests. The procedure set out in this clause 4 shall be repeated in respect of further Phases as set out in the Project Plan as well as any further development works agreed by the Parties from time to time.
- 4.2. The Acceptance Tests shall test compliance of the Site with the Site Specification. The form and detail of such tests shall be notified to the Customer by the Supplier.
- 4.3. Acceptance of the Site shall occur when the Site has passed the Acceptance Tests. The Customer shall sign the Acceptance Certificate in respect of the Site and return it to the Supplier as soon as reasonably practicable following Acceptance.
- 4.4. In the event that any Acceptance Tests are not passed, the failures that cause the relevant tests to be failed (**Supplier Defect**) shall be drawn up and documented by the Supplier and presented to the Customer for discussion as to how best to rectify such Supplier Defects.
- 4.5. If any failure to pass the Acceptance Tests exclusively results from a defect which is caused by an act or omission of the Customer, or by one of the Customer's sub-contractors or agents for whom the Supplier has no responsibility (**Non-Supplier Defect**), the Site shall be deemed to have passed the Acceptance Tests notwithstanding such Non-Supplier Defect, and the Customer shall sign and return the Acceptance Certificate to the Supplier within five Business Days of Acceptance. The Supplier shall provide all assistance reasonably requested by the Customer in remedying any Non-Supplier Defect by supplying additional services or products. If such assistance is requested, the Customer shall pay the Supplier in full for all such additional services and products at the Supplier's then current fees and prices.

- 4.6. The Supplier shall remedy any Supplier Defects before launch unless agreed by both parties in order to ensure that the Site passes the Acceptance Tests on a retest.
- 4.7. If such a retest demonstrates that the Site is still not in accordance with the Site Specification, the Customer may, by written notice to the Supplier, elect at its sole option:
- a. the Customer uses any part of the Site for any revenue-earning purposes or to provide any services to third Parties other than for test purposes; or
 - b. the Customer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of seven working days from the date on which the Supplier is ready to commence running such Acceptance Tests or retests.
- 4.8. Defects shall be rectified by the Supplier in accordance with 0.

5. Third Party products

- 5.1. The Third Party Products shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such Third Party Products shall be included in the Charges payable pursuant to clause 7.1.

6. Project management

- 6.1. Each Party shall appoint a project manager who shall:
- a. provide professional and prompt liaison with the other Party; and
 - b. have the necessary expertise and authority to commit the relevant Party

7. Charges and payment

- 7.1. Following Acceptance, the Supplier shall issue a VAT invoice in respect of the Charges, and the Customer shall pay to the Supplier the Charges set out and calculated correctly in such

invoice within 30 days of receipt of it, except for any amount in respect of which there is a genuine dispute.

- 7.2. All Charges are exclusive of VAT.

8. Warranties

- 8.1. Each of the Parties warrants to the other that it has full power and authority to enter into and perform these Terms.
- 8.2. The Supplier shall perform the Services with reasonable care and skill and in accordance with generally recognised commercial practices and standards.
- 8.3. The Supplier warrants that if Hosting the Site, the operation of the Site will be uninterrupted and free of errors, viruses and material errors and that the Site will perform in accordance with the Site Specification for a period of 12 months from Acceptance. If the Supplier is not Hosting the Site then the Supplier shall provide a warranty for the Supplier Defects only.
- 8.4. The warranty set out in clause 8.3 shall not apply to the extent that any failure of the Site to perform substantially in accordance with the Site Specification is caused by any Materials.
- 8.5. These Terms sets out the full extent of the Supplier's obligations and liabilities in respect of the supply of the Services. All conditions, warranties or other terms concerning the Services which might otherwise be implied into these Terms or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

9. Limitation of remedies and liability

- 9.1. Nothing in these Terms shall operate to exclude or limit either Party's liability for:
- a. death or personal injury caused by its negligence; or
 - b. any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

- c. fraud; or
 - d. the deliberate default or wilful misconduct of that Party, its employees, agents or subcontractors; or
- 9.2. any other liability which cannot be excluded or limited under applicable law.
- 9.3. The Supplier shall not be liable to the Customer for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any indirect or consequential loss or damage.
- 9.4. Subject to clauses 9.1 and 9.4, each Party's aggregate liability in respect of claims based on events in any calendar year arising out of or in connection with these Terms or any collateral contract, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed £10,000 (Cap).
- 9.5. The Cap shall not apply to a Customer breach of clause 7.1.

10. Intellectual property rights

- 10.1. All Intellectual Property Rights in the Site Specification and the Site (including in the content of the Site and the Site Software) arising in connection with these Terms shall be the property of the Customer, and the Supplier hereby assigns all such Intellectual Property Rights to the Customer. The Parties shall execute all documents necessary to give effect to this clause 10.1.
- 10.2. The Customer shall indemnify the Supplier against all damages, losses and expenses arising as a result of any action or claim that the Materials infringe the Intellectual Property Rights of a third Party.
- 10.3. The Supplier shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that the Site infringes any Intellectual Property Rights of a third Party. in the UK, other than infringements referred to in clause 10.2.
- 10.4. The indemnities in clause 10.2, clause 10.3 and clause 11.4 are subject to the following conditions:

- a. the indemnified Party promptly notifies the indemnifier in writing of the claim;
 - b. the indemnified Party makes no admissions or settlements without the indemnifier's prior written consent;
 - c. the indemnified Party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and
 - d. the indemnified Party allows the indemnifier complete control over the litigation and settlement of any action or claim.
- 10.5. The indemnities in clause 10.2, clause 10.3, clause 11.4 and clause 11.5 may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified Party.

11. Site content

- 11.1. The Supplier shall update the Site with Materials provided from time to time by the Customer if so requested by the Customer. The Customer shall ensure that the Materials do not infringe any applicable laws, regulations, or third party rights.
- 11.2. The Supplier shall grant the Customer access to the Server in order to update information held on the Site.
- 11.3. The Supplier shall include only Materials on the Site. The Customer acknowledges that the Supplier has no control over any content placed on the Site by Visitors and does not purport to monitor the content of the Site. The Supplier shall remove content from the Site where it reasonably suspects such content infringes any applicable laws, regulations or third party rights (such as material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third Party Intellectual Property Rights) (**Inappropriate Content**). The Supplier shall notify the Customer immediately if it becomes aware of any allegation that any content on the Site may be Inappropriate Content.
- 11.4. The Supplier shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that the content of the Site (other than the Materials) constitutes Inappropriate Content.

- 11.5. The Supplier may include the statement “Developed by Spindogs” in the footer of the Site in a form to be agreed.

12. Data protection

- 12.1. Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 12 is in addition to, and does not relieve, remove or replace, a party’s obligations under the Data Protection Legislation.
- 12.2. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor and controller and processor shall have the meanings as defined in Articles 4(7) and 4(8) respectively of the GDPR. 0 sets out the scope, nature and purpose of processing by the Supplier.
- 12.3. Without prejudice to the generality of clause 12.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of these Terms.
- 12.4. Without prejudice to the generality of Clause 12.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under these Terms:
- a. process that Personal Data only on the written instructions of the Customer unless the Supplier is required by Data Protection Legislation to otherwise process that Personal Data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Data Protection Legislation unless the Data Protection Legislation prohibits the Supplier from so notifying the Customer;
 - b. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity,

availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- c. not transfer any Personal Data outside the European Economic Area unless the following conditions are fulfilled:
 - i. the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;(ii) the Data Subject has enforceable rights and effective legal remedies;
 - ii. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - iii. the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- d. assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- e. notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- f. at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Data Protection Legislation or other laws that apply to the Supplier to store the Personal Data; and
- g. maintain complete and accurate records and information to demonstrate its compliance with this Clause 12.

12.5. The Customer consents to the Supplier appointing a third-party processor of Personal Data under these Terms. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this Clause 12. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 12.

12.6. Either Party may, at any time on not less than 30 days' notice, revise this Clause 12 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to these Terms).

13. Term and termination

- 13.1. These Terms shall commence on the Effective Date and shall (subject to earlier termination pursuant to this clause 13) terminate 3 months after the Customer gives written notice from to the Supplier to terminate the Agreement.
- 13.2. Without affecting any other right or remedy available to it, either Party may terminate these Terms with immediate effect by giving written notice to the other Party if:
- a. the other Party commits a material breach of any term of these Terms which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - b. the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - c. the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - d. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - e. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other Party;
 - f. the holder of a qualifying floating charge over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver;
 - g. a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
 - h. a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within 14 days;

- i. any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2(b) to clause 13.2(h) (inclusive); or
- j. the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

13.3. On expiry or termination of these Terms:

- a. all licences granted to the Supplier under these Terms shall terminate immediately;
- b. the Supplier shall promptly return all Materials and all copies of the Site Specification to the Customer and shall provide to the Customer an electronic copy of the Site (including all content on the Site). The Supplier shall provide all such assistance as is reasonably requested by the Customer in transferring the Hosting of the Site to the Customer or another service provider, subject to payment of the Supplier's expenses reasonably incurred.

13.4. Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these Terms shall remain in full force and effect.

13.5. Termination or expiry of these Terms shall not affect any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

14. Change control

14.1. Any request to change the scope of the Services shall be processed in accordance with the Change Control Procedure as set out in 0.

15. Force majeure

15.1. Neither Party shall be in breach of these Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Terms if such delay or failure result from events,

circumstances or causes beyond its reasonable control. In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 days, the Party not affected may terminate these Terms by giving 5 Business Days' written notice to the affected Party.

16. Confidentiality

16.1. The definition in this clause applies in these Terms.

Confidential Information: all information whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or pursuant to discussions between the Parties), where the information is:

- a. identified as confidential at the time of disclosure; or
- b. ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

16.2. Each Party shall protect the Confidential Information of the other Party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

16.3. Confidential Information may be disclosed by the receiving Party to its employees, affiliates and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information received.

16.4. The obligations set out in this clause 16 shall not apply to Confidential Information which the receiving Party can demonstrate:

- a. is or has become publicly known other than through breach of this clause 16; or
- b. was in possession of the receiving Party prior to disclosure by the other Party; or
- c. was received by the receiving Party from an independent third party who has full right of disclosure; or
- d. was independently developed by the receiving Party; or

- e. was required to be disclosed by governmental authority, provided that the Party subject to such requirement to disclose gives the other Party prompt written notice of the requirement.

16.5. The obligations of confidentiality in this clause 16 shall not be affected by the expiry or termination of these Terms.

17. Audit

17.1. The Customer shall have the right to audit the Supplier's compliance with these Terms and/or any services provided to the Customer by the Supplier on giving seven days' written notice to the Supplier. At the Customer's option, this audit may cover documents only or may include onsite audit, subject to the customer notifying the Supplier of the identity of any onsite auditors and giving confirmation that any external auditors have entered into appropriate confidentiality Agreements.

18. Notices

18.1. A notice given under these Terms:

- a. shall be in writing in the English language (or be accompanied by a properly prepared translation into English);
- b. shall be sent for the attention of the person, and to the address or e-mail address given in this clause 18 (or such other person, address or e-mail address as the receiving Party may have notified to the other, such notice to take effect five days from the notice being received); and
- c. shall be:
 - i. delivered personally; or
 - ii. sent by e-mail; or
 - iii. sent by pre-paid first-class post, recorded delivery or registered post; or
 - iv. (if the notice is to be served or posted outside the country from which it is sent) sent by registered airmail.

18.2. The address for service of notice for the Supplier is:

Spindogs

Pascoe House

54 Bute Street

Cardiff

CF10 5AF

For the attention of: Liam Giles

Email: lgiles@spindogs.com

The address for service of notice for the Customer shall be the address and email address given on the Supplier Quote or any address or email address notified by the Customer to the Supplier in writing.

18.3. A notice is deemed to have been received:

- a.** if delivered personally, at the time of delivery; or
- b.** in the case of e-mail, at the time of transmission, provided a confirmatory copy is sent by first-class pre-paid post or by personal delivery before the end of the next Business Day; or
- c.** in the case of pre-paid first class post, recorded delivery or registered post, 48 hours from the date of posting; or
- d.** in the case of registered airmail, five days from the date of posting; or
- e.** if deemed receipt under the previous paragraphs of this clause 18.3 is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), when business next starts in the place of receipt.

18.4. To prove service, it is sufficient to prove that the notice was transmitted to the e-mail address of the relevant Party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

19. Publicity

- 19.1. All media releases, public announcements and public disclosures by the Supplier relating to these Terms or their subject matter, including promotional or marketing material, shall be co-ordinated with the Customer and approved by the Customer prior to release.

20. Assignment

- 20.1. The Supplier may not assign or transfer any of its rights or obligations under these Terms. The Customer may assign or transfer any of its rights or obligations under these Terms, provided it gives prior written notice to the Supplier.

21. Entire agreement

- 21.1. These Terms supersede and extinguish all previous promises, assurances, warranties, representations and understandings between the parties, whether written or oral, relating to its subject matter.
- 21.2. Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms.

22. Third party rights

- 22.1. A person who is not a Party to these Terms shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Terms.
- 22.2. The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under these Terms are not subject to the consent of any other person.

23. Variation

The Supplier may vary these Terms annually or as required from time to time and shall use reasonable endeavours to notify the Customer of any variation.

24. Waiver

No failure or delay by a Party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

25. Severance

- 25.1. If any provision (or part of a provision) of these Terms is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 25.2. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

26. Governing law

These Terms and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England and Wales.



27. Jurisdiction

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

These Terms shall be deemed to have been entered into on the Effective Date.

Schedule 1 – Change control procedure

1. Change

Any change to these Terms whether a Customer request (Request) or Supplier recommendation (Recommendation) shall be in writing.

2. Format

The Request or Recommendation (together the **Change**) shall contain:

- a. a meaningful title;
- b. the originator and the date of the Change;
- c. the reason for the Change;
- d. the full details of the Change, including any specifications and user facilities;
- e. the price, if any, of or associated with the Change;
- f. Materials, if any;
- g. a timetable for implementation, together with any proposals for acceptance of the Change;
- h. the impact, if any, of the Change on other aspects of these Terms, including:
 - i. the Charges;
 - ii. the contractual documentation; and
 - iii. staff resources;
- i. provision for authorised signature of the Change by the Customer and the Supplier.

3. Response and Implementation

The Supplier will respond within 5 working days where possible and shall use commercially reasonable endeavours to assess and implement the Change.

Schedule 2 – Service Levels

This schedule applies to these Terms if the Scope of the Project includes Services and Hosting.

1. Definitions

For the purposes of this schedule, the following applies:

Help Desk: the Supplier initial contact for Customer requests for service.

Technical Team: the Supplier team to which requests for service are escalated if the Help Desk is unable to resolve.

Ticket: the Supplier reference given to a Customer request for service.

Weekend Hours: any hours which are not Working Hours.

Working Hours: the hours from 0900 to 1700 on a Business Day other than when a Business Day is a Friday in which case the hours shall be from 0900 to 1500.

2. Charge Rates

- 2.1. Work required by the Customer outside of any agreed support contract and/or quotation undertaken during Working Hours will be charged at an agreed project cost calculated on an hourly rate of £150 exclusive of VAT unless otherwise negotiated.
- 2.2. Work required by the Customer outside of any agreed support contract undertaken during Weekend Hours will be charged at an agreed project cost calculated on an hourly rate of £250 exclusive of VAT unless otherwise negotiated.

3. Ticket Prioritisation

- 3.1. Tickets shall be categorised as follows:

Category	Description
Critical	Server wide downtime affecting websites
Urgent	Domain specific downtime as a result of the service being provided by Supplier. This covers but is not limited to isolated issue of website being unavailable, major functional errors or disruption and changes to DNS.
Priority	Disruptive situation, but core service offering is functioning. This covers but is not limited to minor functional errors or disruptions as a result of the service being provided.
Bug	A minor issue / error with very minimal impact.
Support	This covers but is not limited to: changes to elements of the website not under the user control, adding new elements to the website. If no support contract is in place or in Supplier's reasonable opinion a support contract has been overused then a support ticket will be chargeable and/or a modified support contract discussed. A support request is something that takes up to 4 hours of time in total to update.

3.2. Initial categorisation of a Ticket is at Supplier's sole discretion and Supplier reserves the right to reassess and recategorise a Ticket at any time.

3.3. Descriptions as set out in clause 3.1 of this Schedule are not exhaustive and may be amended by Supplier from time to time and in any event shall not be the sole grounds for the Supplier's determination of a Ticket category.

4. Service Levels

4.1. Ticket Service Levels

Category	Response Time
Critical	Supplier will aim to respond within 1 Working Hours and send the Customer an escalated response from the Technical Team if not resolved within 2 Working Hours.
Urgent	Supplier will aim to respond within 2 Working Hours and send the Customer an escalated response from the Technical Team if not resolved within 4 Working Hours.
Priority	Supplier will aim to respond within 4 Working Hours and send the Customer an escalated response from the Technical Team if not resolved within 8 Working Hours.
Bug	Supplier will aim to respond within 8 Workings hours and resolve, on average, within 5 working days.
Support	Supplier will aim to respond within 8 Workings hours and resolve, on average, within 5 working days.

4.2. General Service Levels

Service	Response	Target
Incoming Phone Calls to Supplier	Within 22 seconds	90%
Answer Phone Messages	Within 8 Working Hours	90%
Emails sent to support@spindogs.com	Within 8 Working Hours	90%

4.3. Data Centre Levels

Description	Level
Uptime	99.99%
Connectivity	100 mbs
Bandwidth	Unlimited

4.4. Website Server

The website server shall be operational no less than 99.5% of the time over any given 12-month period.

4.5. Weekend Hours Requests

The Ticket Service Levels and General Service Levels shall not apply where a Ticket is created (i) during Weekend Hours or (ii) where a Ticket is created during Working Hours but the response as set out in clause 4.1 of this Schedule may fall outside Working Hours

5. Customer Responsibilities

5.1. Customer Contact

The Customer shall ensure the availability of a customer contact to (i) provide the information as set out in clause 5.2 of this Schedule below at the creation of the Ticket and (ii) provide any further information as requested by the Supplier and be generally available for Supplier requests and review of any Supplier work.

5.2. To enable the creation of a Ticket the Customer shall provide the following information:

- Operating System
- Application Used (e.g. web browser) Screenshot[s] of problem
- URL to area of site



- 5.3. The Customer agrees that any undue delay in respect of its obligations under clauses 5.1 and 5.2 of this Schedule shall render any relevant service level as not applicable.

6. Reporting

- 6.1. Upon Customer request and as part of the deliverables that fall within any support contract the Supplier may provide a monthly report on Tickets in a form to be agreed between the Parties.

7. Hosting Platform

- 7.1. The Customer acknowledges that the service levels as set out in this Schedule apply to servers provided by the Supplier only.

Schedule 3 – Data Protection

Processing, personal data and data subjects

For the purposes of this Schedule 6 processing shall have the meaning given in Article 4(2) of the GDPR and process shall be interpreted accordingly.

1. Processing by the Supplier

1.1. Scope

The Supplier and the Customer shall agree the scope as set out in the Project Plan.

1.2. Nature and purpose of the processing

The Supplier will process Personal Data as necessary to perform the Services and Hosting and as further instructed by Customer pursuant to these Terms.

1.3. Duration of processing

Subject to Clause 12.4(f) and 13 of these Terms, the Supplier will process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

2. Types of Personal Data

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- First and last name
- Title
- Position
- Employer

- Contact information (company, email, phone, physical business address)
- ID data
- Professional life data
- Personal life data
- Connection data
- Localisation data

3. Categories of Data Subject

Customer may submit Personal Data to the Services, the extent of which is determined and controlled by Customer in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- Prospects, customers, business partners and vendors of Customer (who are natural persons)
- Employees or contact persons of Customer's prospects, customers, business partners and vendors
- Employees, agents, advisors, freelancers of Customer (who are natural persons)
- Customer's users authorised by Customer to use the Services