

# Terms and Conditions.

## Definitions

The definitions specified in the clause below shall apply to this Contract.

**Charges:** means the fees and any other charges payable by the Customer to Changing Social for the Services as set out under a Statement of Work and as payable in accordance with Charges and payments clause of these Terms and Conditions and the Statement of Work;

**Confidential Information:** means all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one Party to another Party including, without limitation, any information relating to products, operations, processes, plans or intentions, client information, product information, Intellectual Property Rights, market opportunities and business affairs or those of clients or other contacts including the Customer Data (and for the purposes of this definition, “confidential nature” shall refer to information which is identified as confidential at the time of disclosure or would be considered to be confidential by a reasonable person based upon the nature of the information and the circumstances of disclosure);

**Customer:** means the business or individual purchasing services from Changing Social;

**Customer Data:** any information that is provided by or on behalf of the Customer to Changing Social as part of the Customer’s use of the Services, including any information derived from such information;

**Deliverable:** means all Documents, products and materials developed by Changing Social or its agents, subcontractors, consultants and employees in relation to the Services in any form, including computer programs, data, reports and specifications (including drafts);

**Force Majeure:** any cause preventing either Party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the Party so prevented including, without limitation, act of God, war, riot, civil commotion, compliance with any law or governmental order, rule, regulation or direction, flood or storm, save that strike or lockout of the Party’s own staff shall not entitle them to claim that to be a Force Majeure event;

**Intellectual Property Rights or IPR:** means patents, utility models, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including without limitation all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;

**Losses:** means costs, fines, damages, losses and liabilities suffered by a Party;

**Project:** means any project involving the provision of Services;

**Schedule:** means a schedule to these Terms and Conditions or to any Statement of Work;

**Statement of Work:** means a statement of work and agreed target cost signed by both Parties that describes the relevant services to be performed by Changing Social for the Customer in respect of a particular project;

**Site:** means any property owned, leased, licensed or occupied by the Customer or any affiliate as may be agreed by the Parties as being the locations to or at which any services are to be provided; and

**Third Party Software:** any code or software programs written or produced by Microsoft or other third parties which are used or to be used by the Customer in connection with any Statement of Work.

Words in the singular shall include the plural and vice versa. Headings shall not affect the interpretation of these Terms and Conditions. A reference to a person includes any natural person, body corporate, unincorporated association, partnership or trust. Any reference to “writing” includes reference to any communication effected by electronic mail as well as paper documentation.

## **1. Appointment and Application of Terms**

1.1 These Conditions set out the terms and conditions under which Changing Social shall provide to the Customer any Services.

1.2 These conditions shall (i) apply to and be incorporated in any Statement of Work for the purchase of Services; (ii) be in substitution for any prior oral or other prior arrangements between Changing Social and the Customer in connection with the purchase of the relevant Services; and (iii) prevail over any inconsistent terms or conditions contained in, or referenced in, any order confirmation or other acknowledgement, quotation, delivery note, invoice or similar document or implied by law, trade custom or practice.

1.3 No addition to, variation of or other amendment or purported amendment to any Statement of Work, or Schedule or these Conditions shall be binding on the Parties unless expressly stated as such, made in writing and signed by a duly authorised Representative of Changing Social.

## **2. Statement of Work**

2.1 Changing Social shall not be under any obligation to perform and the Customer shall not be under any obligation to accept any Services unless a Statement of Work has been executed.

2.2 Each Statement of Work shall incorporate these Conditions and shall form an independently terminable contractual obligation. Each Statement of Work (together with this Agreement and any documents referred to therein) shall constitute the entire agreement and understanding between the Parties in relation to the relevant Services provided under that Statement of Work and shall supersede and terminate all prior agreements, undertakings and arrangements (both oral and written) relating to the subject matter of the relevant Statement of Work.

2.3 Each Statement of Work for Services concluded between the Parties shall set out the Services to be performed by Changing Social including any Deliverable, Payment Milestones, Risks, and Assumptions.

## **3. Changing Social's Obligations**

3.1 Changing Social shall use reasonable endeavours to manage and complete the Project, and to deliver the Deliverables to the Customer, in accordance with all material respects within the Statement of Work.

Changing Social shall use reasonable endeavours to meet the performance dates specified in the Statement of Work, but any such dates shall be estimates only, and time shall not be of the essence of the Contract.

3.2 Changing Social shall appoint Changing Social's Change Manager who shall have authority to contractually bind Changing Social on all matters relating to the Statement of Work. Changing Social shall use reasonable endeavours to ensure that the same person acts as the Customer's Change Manager throughout the Project but may replace him or her from time to time where reasonably necessary in the interests of Changing Social's business.

3.3 Changing Social may employ sub-contractors without seeking the prior consent of the Customer. Changing Social shall at all times be responsible for and liable in respect of the performance of all obligations under any Statement of Work whether such obligations are performed by Changing Social itself, any Supplier Affiliates or any sub-contractor engaged by Changing Social.

#### 4. The Customer's Obligations

4.1 To the extent that Changing Social requires access to any Site to perform the Services, the Customer shall use reasonable endeavours to provide such access during normal business hours and to provide a suitable work environment to enable Changing Social to perform such Services. This is subject to Changing Social complying with such internal policies and procedures of the Customer (including those relating to security and health and safety) as may be notified to Changing Social in writing from time to time.

4.2 The Customer shall co-operate with Changing Social in all matters relating to the Project and shall appoint a Representative ("Customer Representative") as a contact throughout the Service.

4.3 The Customer shall:

4.3.1 Be a bona fide licensed user of any Third Party Software (including Microsoft365) used by Changing Social.

4.3.2 Co-operate with Changing Social in all matters relating to the Services as reasonably requested by Changing Social.

4.3.3 Adhere to the dates scheduled for provision of Services by Changing Social to the Customer as stated in the applicable Statement of Work or otherwise agreed between the Parties in writing. In the event the Customer wishes to reschedule or cancel the dates for the provision of Services, liquidated damages ("Liquidated Damages") will become payable from the Customer to Changing Social on the following basis:

4.3.3.1 If dates are changed or cancelled at the Customer's request more than 14 days before the scheduled start date no Liquidated Damages are payable.

4.3.3.2 If dates are changed or cancelled between 7 days and 14 days before the scheduled start date Liquidated Damages equivalent to 50% of the Charges for the Services to be provided at that time will be payable.

4.3.3.3 If dates are changed or cancelled less than 7 days before the scheduled start date liquidated Damages equivalent to 100% of the Charges for the Services to be provided at that time will be payable.

4.3.4 Provide such access to the Customer's systems, software and platforms as may reasonably be requested by Changing Social.

4.3.5 Provide such output and other data, documents, information, assistance and access to Applications and Supplier Managed Applications, as are reasonably necessary to assist Changing Social in the production of proof of concepts, demo, testing and delivery of final solutions.

4.4 The Customer shall list Changing Social as the Claimed Partner of Record (CPOR) for adoption in the Customer's Microsoft admin portal for the specific workload/s.

#### 5. Charges and Payments

5.1 Price lists do not constitute an offer by Changing Social to the Customer.

5.2 Any engagements that are outside of Bristol (UK) or London (UK) are subject to reasonable travel and accommodation and subsistence expenses being charged to the Customer.

5.3 Any fixed price contained in the Statement of Work excludes:

5.3.1 where a project is on-site the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by Changing Social and its Employees in connection with the Services, and the cost of any materials or services reasonably and properly provided by third parties required by Changing Social for the supply of the service. Such expenses, materials and third party services shall be invoiced by Changing Social [at cost];

5.3.2 Taxes such as VAT, or other such taxes required by law, which Changing Social shall add to its invoices at the appropriate rate.

5.4 Subject to any contrary provision in the Order or Statement of Work Changing Social reserves the right to increase or vary a quoted price or the Invoice Charge without the Customers prior consent in accordance with any increase or variance in its own costs including costs of materials, labour, services, transport or changes in exchange rates between the date of the Order and the Delivery, and the Customer agrees to pay such additional

charges without dispute.

5.5 Changing Social may at its sole discretion establish a credit account for the Customer in which case payment for any Goods or Services due to must be paid in full, and in cleared funds, no later than 30 days of receipt. Where a credit account is not established for the Customer payment is required in cleared funds prior to Completion. Payment is to be made in pounds sterling.

5.6 Changing Social reserves the right to issue invoices based on two "trigger points" Trigger Point One shall apply to long term Projects whereby invoicing will span multiple months, therefore invoices will be issued at the end of each month. Trigger Point Two shall be on delivery of Goods; Services or Completion (at Changing Social's discretion) whereby invoice/s will be issued immediately thereafter.

5.7 Payment is due within 30 days from the date of invoice.

5.8 If payment is not received within 30 days of the invoice being submitted Changing Social reserves the right (a) to claim interest at the rate applicable at the time and commercial debt recovery costs in accordance with late payment legalisation, including the Late Payment of Commercial Debts (Interest) Act 1998 as amended from time to time and; (b) suspend the delivery of further services.

5.9 Where any payment remains overdue for more than 20 days Changing Social reserves the right to cancel any unfulfilled Orders or Statement of Work without prejudice to any claim or right Changing Social might otherwise have.

5.10 Changing Social reserves the right to require payment of the Invoice Charge in stages at its discretion.

5.11 Time for payment shall be of the essence of the Contract. All payments payable to Changing Social under the Contract shall become due immediately on termination of the Contract, despite any other provision. This clause is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

## **6. Intellectual Property Rights**

6.1 All Intellectual Property Rights and all other rights in the development of the Deliverables shall be owned by Changing Social. Changing Social hereby licenses all such rights of the Deliverables, not the development of deliverables, to the Customer free of charge and on a non-exclusive, non-transferable and worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services as is envisaged by the Parties. If Changing Social terminates the Contract this licence will automatically terminate.

6.2 The Customer acknowledges that the Customer's use of rights in Pre-existing Materials is conditional on Changing Social obtaining a written end-user licence (or sub-licence) of such rights from the relevant licensor or licensors on such terms as will entitle Changing Social to license such rights to the Customer.

6.3 All Intellectual Property Rights in any materials (both tangible and intangible) provided by the Customer to Changing Social shall remain in the ownership of the Customer and its licensee. The Customer hereby licenses Changing Social on a non-exclusive; non-transferable and worldwide basis to use such materials for the purposes of providing the Service.

## **7. Confidentiality**

7.1 Each Party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving Party or its agents, and any other confidential information concerning the disclosing Party's business or its products which the receiving Party may obtain.

7.2 Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this agreement. A Party's Confidential Information shall not be deemed to include information that:

7.2.1 is or becomes publicly known other than through any act or omission of the receiving Party;

7.2.2 was in the other Party's lawful possession before the disclosure;

7.2.3 is lawfully disclosed to the receiving Party by a Third Party without restriction on disclosure;

7.2.4 is independently developed by the receiving Party, which independent development can be shown by written evidence.

7.3 All materials, equipment and tools, drawings, specifications and data supplied by Changing Social to the Customer shall at all times be and remain the exclusive property of Changing Social, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Changing Social, and shall not be disposed of or used other than in accordance with Changing Social's written instructions or authorisation.

7.4 The above provision of this Clause shall survive termination of the Contract, however arising.

## **8. Data protection and data processing**

8.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation. In this clause 9, Applicable Laws means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and Domestic UK Law means any Data Protection Legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation

8.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Changing Social is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).

8.3 Changing Social shall:

8.3.1 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;

8.3.2 notify the Customer without undue delay on becoming aware of a Personal Data breach; and

8.3.3 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 Applicable Law to store the Personal Data.

## **9. Non-Solicitation**

9.1 During the term of the Contract and for a period of (a) 9 months after its expiry or termination or (b) if later, the last day of provision of the Services, the Customer undertakes that it will not without Changing Social's prior written consent directly or indirectly solicit or offer employment or engagement to any Worker or Contractor who at the time of such action or during a period of 12 months immediately preceding such action was directly involved in the provision of Services to the Customer.

## **10. Limitations of Liability**

10.1 The following provisions set out the entire financial liability of Changing Social (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

10.1.1 any breach of the Contract howsoever arising;

10.1.2 any use made by the Customer of the Services, Deliverables or any part of them; and

10.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission

(including without limitation negligence) arising under or in connection with the Contract.

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

10.2 Nothing in these Terms excludes the liability of the Parties that cannot be excluded by law.

10.3 Subject to Clause 11 and Clause 12

10.4 Neither Party shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for loss of profits, loss of business; or depletion of goodwill or similar losses; or loss of anticipated savings; or loss of goods; or loss of contract; or loss of use; or loss or corruption of data or information; or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

10.5 Each Party's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to one hundred per cent of the price paid for the Services.

10.6 Changing Social shall not take full or partial liability for variations in any Microsoft Platforms such as; Office 365, or Azure beyond the control of Changing Social.

10.7 Changing Social shall not take full or partial liability for variations to the final and completed deliverable outlined in the Statement of Work, where changes or amendments have been made by the Client, and/or it's employees, subcontractors or others who are not directly employed by Changing Social.

## 11. Termination

11.1 Without prejudice to any other rights or remedies to which the Parties may be entitled, either Party may terminate the Contract without liability to the other if:

11.1.1 the other Party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment;

11.1.2 the other Party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

11.1.3 Changing Social determines that, as a result of a change in circumstances of the financial position of the Customer, the Customer is unable to pay the invoices payable in respect of the Service.

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

11.6. Termination of this agreement 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 agreement that existed at or before the date of termination.

11.7. On termination of this agreement for any reason:

11.7.1. the Customer shall promptly pay to Changing Social all of Changing Social's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Changing Social may submit an invoice, which shall be payable immediately on receipt;

11.7.2. the Customer shall return all of Changing Social's Equipment, Pre-existing Materials and Deliverables. If the



Customer fails to do so, then Changing Social may enter the Customer's premises and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;

11.7.3. the accrued rights, remedies, obligations and liabilities of the Parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

## **12. Force Majeure**

12.1 Changing Social shall not in any circumstances have any liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Changing Social or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractor.

## **13. Marketing and References**

13.1 Changing Social will be entitled to refer to the Customer as a client, using the Customer's logo and business name in such respect, on its website and marketing material. The Customer will also co-operate with Changing Social in providing written references and such other references and/or case studies as may be requested from time to time. Other than as set out in this Clause 14 or as required under applicable law, neither Party will make any public statement or issue any press release referring to its relationship with the other Party without that other Party's prior written agreement.

## **14. Waiver**

14.1 No failure or delay by a party to exercise any right or remedy provided under this agreement 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.

## **15. Rights and Remedies**

15.1 The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

## **16. Severance**

16.1. If any provision of this agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the agreement, and the validity and enforceability of the other provisions of the agreement shall not be affected.

16.2. If a provision of this agreement (or part of any provision) is found illegal, invalid or unenforceable, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable and, to the greatest extent possible, achieves the Parties' original commercial intention.

## **17. Dispute resolution**

17.1. If any dispute arises in connection with this agreement, Changing Social's Delivery Lead and the Customer's Manager shall, within 14 days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute.

17.2. If the dispute is not resolved at that meeting, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator will be

nominated by CEDR. To initiate the mediation, a Party must give notice in writing (ADR notice) to the other Party requesting mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 14 days after the date of the ADR notice.

17.3. The commencement of mediation will not prevent the Parties commencing or continuing court proceedings.

## **18. Governing Law and Jurisdiction**

18.1 These Terms and Conditions and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales. The Parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions.