Terms & Conditions

Standard Terms and Conditions for the Supply of Services by Numiko Ltd

1. **Definitions**
   1.1. In this document the following words shall have the following meanings:
   1.2. "Agreement" means these Terms and Conditions together with the terms of any attached Statement of Work;
   1.3. "Customer" means the organisation or person who purchases services from Numiko;
   1.4. "Intellectual Property Rights" means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;
   1.5. "Statement of Work" means a statement of work, quotation or other similar document describing the services to be provided by Numiko;
   1.6. "Supplier" means Numiko Ltd.
   1.7. "Deliverables" means any outputs including websites, software, reports, user guides, operating procedures and other documents which are produced, delivered and/or made available to the Customer

2. **General**
   2.1. These Terms and Conditions shall apply to all contracts for the supply of services by Numiko to the Customer. Any terms of the Customer shall not be binding on Numiko.
   2.2. Before the commencement of the services Numiko shall submit to the Customer a Statement of Work which shall specify the services to be performed and the fees payable. The Customer shall notify Numiko immediately if the Customer does not agree with the contents of the Statement of Work. All Statement of Works shall be subject to these Terms and Conditions.
   2.3. Numiko shall use all reasonable endeavours to complete the services within the estimated time frames but time shall not be of the essence in the performance of any services.

3. **Fees and Payment**
   3.1. The fees for the performance of the services are as set out in the Statement of Work. Payment in full, of the amount shown on the invoice, is due within 30 days after the invoice date (unless otherwise agreed, in writing). If payment is not made by the due date, without prejudice to Numiko's other rights and remedies, Numiko reserves the right to charge interest at 4% per annum above the base rate of NatWest Bank plc calculated on a daily basis on all outstanding amounts from the due date of payment to the actual date of payment.
   3.2. Numiko reserves the right to adjust its fees in line with inflation annually. This will be based on the ONS CPI rate.

4. **Customer's obligations**
   4.1. To enable Numiko to perform its obligations under this Agreement the Customer shall provide Numiko with any information reasonably required by Numiko and comply with such other requirements as may be set out in the Statement of Work or otherwise agreed between the parties (including obtaining the necessary consents).
   4.2. The Customer shall be liable to compensate Numiko for any expenses incurred by Numiko as a result of the Customer's failure to comply with Clause 4.1.
   4.3. In the event that the Customer or any third party, not being a sub-contractor of Numiko, shall omit or commit anything which prevents or delays Numiko from undertaking or complying with any of its obligations under this Agreement, then Numiko shall notify the Customer as soon as possible and:
      4.3.1. Numiko shall have no liability in respect of any delay to the completion of any project;

4.3.2. if applicable, the timetable for the project will be modified accordingly;
4.3.3. Numiko shall notify the Customer at the same time if it intends to make any claim for additional costs.

5. Warranty

5.1. The Supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care.
5.2. Without prejudice to Clause 6.1, and except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the services to be provided by the Supplier.
5.3. The Supplier agrees to rectify any technical bugs as part of the initial development costs throughout the lifespan of the project and for a warranty period of 30 days post-launch. However, this excludes the following items which are all classed as change requests and will be quoted additionally as and when required:
5.3.1. any technical errors occurring after or due to changes made to the hosting platform during or after deployment.
5.3.2. any technical errors caused by the client, any of its agents or other third party suppliers
5.3.3. any technical errors occurring on browsers that are outside of the defined supported browser list at any time during the project development or after launch.
5.3.4. any improvements that are highlighted as needed after analysis of site usage statistics or usability tests occurring after Client Acceptance Testing and approval

6. Indemnification

6.1. The Customer shall indemnify Numiko against all claims, costs and expenses which Numiko may incur and which arise, directly or indirectly, from the Customer's breach of any of its obligations under this Agreement, including any claims brought against Numiko alleging that any services provided by Numiko in accordance with the Statement of Work infringes any Intellectual Property Rights of a third party.

7. Limitation of Liability

7.1. The entire liability of Numiko to the Customer, and of the Customer to Numiko, in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the fees paid or payable by the Customer to which the claim relates.
7.2. In no event shall Numiko be liable to the Customer for any loss of business; loss of opportunity; loss of profits; or for any indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or Numiko had been made aware of the possibility of the Customer incurring such a loss.
7.3. Nothing in these Terms and Conditions shall exclude or limit Numiko's liability for death or personal injury resulting from Numiko's negligence or that of its employees, agents or sub-contractors.

8. Termination

8.1. Without prejudice to any other rights or remedies which the parties may have, either Party may terminate this Agreement without liability to the other with immediate effect upon written notice to the other if:
8.1.1. the other party commits a material breach of this Agreement which is not capable of being remedied;
8.1.2. the other party commits a material breach of any of the terms of this Agreement which is capable of remedy and fails to remedy that breach within 28 days of that party being notified in writing of the breach; or
8.1.3. an order is made or a resolution is passed for the winding up of the other party, or for appointment of an administrator to manage the affairs, business and property of the other party; or a receiver is appointed of any of the other party's assets or undertakings; or the other party makes any arrangement or composition with its creditors; or the other party ceases, or threatens to cease, to trade; or the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.
8.2. On termination of this Agreement for any reason the Customer shall pay to Numiko all of Numiko's outstanding unpaid invoices (i) in respect of Services supplied within the agreed normal payment terms as set out in clause 3, and (ii) in respect of Services supplied but for which no invoice has been

submitted, in which case Numiko may submit an invoice for all outstanding Services provided, which shall be payable in line with the agreed payment terms;

8.3. In the absence of a breach by Numiko of its obligations, if the Customer terminates this Agreement, Numiko is authorised to invoice, and the Customer shall pay Numiko the whole amount of the total Fee, in accordance with clause 3.

8.4. Upon receipt of payment in accordance with clause 8.2 and/or clause 8.3 above (as the case may be), Numiko shall (i) immediately make available to the Customer the Deliverables in the state they are in as at the date of termination~~;~~ and (ii) within a reasonable period following the date of termination and no later than 60 days from the date of termination Numiko shall provide the Customer with a copy of the Documentation in relation to the Deliverables as at the date of termination; and

8.5. The accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

9. Intellectual Property Rights

9.1 All intellectual property rights in all works or supplies provided under this Contract which are written or produced on a bespoke or customised basis, including, without limitation, all future such rights when the said works are created, shall be owned by the Customer and Numiko shall ensure that it executes all documents necessary to affect such ownership. Subject to Clause 7, where Numiko provides existing intellectual property right protected material to the Customer under this Agreement it shall disclose this to Customer, warrants it has the right to do so and shall fully indemnify and hold Customer harmless against loss or liability arising from any third-party intellectual property rights claims arising both from such existing material and in relation to any such bespoke work. Except as provided above both parties retain ownership of their pre-existing intellectual property rights protected material.

9.2 Subject to the foregoing, each party shall be entitled to use in any way it deems fit any skills, techniques or know-how acquired or developed or used in connection with [the Website or otherwise in connection with] this Agreement provided always that such skills, techniques or know-how do not infringe the other party's Intellectual Property Rights now or in the future or disclose or breach the confidentiality of the other party's Confidential Information.

10. Force Majeure

10.1. Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

11. Independent Contractors

11.1. Numiko and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. Numiko may, in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the Customer and such engagement shall not relieve Numiko of its obligations under this Agreement. In such circumstances Numiko shall provide written confirmation that it intends to engage sub-contractors in the delivery of services and shall seek written consent to do so from the Customer.

12. Assignment

12.1. The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of Numiko.

13. Severability

13.1. If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

14. Waiver

14.1. The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions of this Agreement.

15. Notices

15.1. Any notice to be given by either party to the other may be served by fax, personal service or by post to the address of the other party given in the Statement of Work or such other address as such party may from time to time have communicated to the other in writing, and if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

16. Entire Agreement

16.1. This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

17. No Third Parties

17.1. No person or body who is not a party to this Agreement has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement (but this does not affect any rights or remedies of a third party which exist or are available apart from that Act).

18. Governing Law and Jurisdiction

18.1 This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.

Agreed:

Numiko Ltd.	Client
Signature: D. Eccles	Signature:
Name: David Eccles	Name: Frank Soodeen
Title: Director	Title: Director of Communications & Public Engagement
Date 3/30/2023	Date: 31st March 2023