



DATED 2019

PROMOTE CONSULTING LIMITED

TERMS AND CONDITIONS
FOR THE SUPPLY OF SERVICES

CONTENTS

1	Definitions and Interpretation	3
2	Application of T&Cs	4
3	Effect of Statement of Work	4
4	Supplier's Obligations	5
5	Supplier's Team	5
6	Customer's Obligations	6
7	Change Control	6
8	Charges and Payment	7
9	Quality of Services	8
10	Intellectual Property Rights	8
11	Indemnity	8
12	Confidentiality	9
13	Anti-bribery	10
14	Anti-slavery	10
15	Data Protection and integrity	11
16	Warranties	11
17	Limitation of Liability	12
18	Termination	13
19	Language	14
20	Force Majeure	14
21	Waiver	14
22	Rights and Remedies	15
23	Severance	15
24	Entire Agreement	15
25	Assignment	15
26	No Partnership or Agency	15
27	Third Party Rights	15
28	Notices	15
29	Disputes	16
30	Governing Law	16
31	Jurisdiction	16

These **TERMS AND CONDITIONS** are dated on 2019

BETWEEN:

PROMOTE CONSULTING LIMITED incorporated and registered in England and Wales with company number 11153190 whose registered office is Accountancy House, 90 Walworth Rd, London SE1 6SW, (**"The SUPPLIER"**); and

..... incorporated and registered in, with company number, whose registered office is at (**"The CUSTOMER"**).

1 Definitions and Interpretation

- 1.1 The definitions and rules of interpretation in this clause apply in these Terms and Conditions for the Supply of IT Services (**"T&Cs"**)

"Commencement Date" the date on which the Supplier commences delivery of the Services to the Customer in accordance with the relevant Statement of Work.

"Confidential Information" all information (including all oral and visual information), and all information recorded in writing or electronically or in any other medium or by any other method) disclosed to or obtained by either party from the other, or a third party acting on behalf of the other, and shall include but not be limited to (i) the terms of the Contract and (ii) any information relating to the other party's operations, processes, plans, intentions, equipment, know how, designs, trade secrets, software, data, diagrams, reports, specifications, opportunities and business affairs.

"Contract" the Customer's acceptance of a Statement of Work and the Supplier's acknowledgement of such acceptance under condition 3.

"Customer" the person, firm or company who purchases Services from the Supplier, as detailed in the Statement of Work.

"Customer's Engagement Manager" the Customer's manager for the Services appointed in accordance with condition 6.1.1.

"Customer Materials" any materials provided by or on behalf of the Customer to the Supplier.

"Deliverables" all products and materials developed by the Supplier in relation to the Services in any media, including, without limitation, computer code, computer programs, data, diagrams, reports and specifications (including drafts).

"Good Industry Practice" in relation to the performance of any of the Services, their performance to the standard of skill, care, prudence and foresight, in each case with appropriate management and control of quality, that a leading professional SUPPLIER of services similar to the Services would use in the performance of those services.

"Intellectual Property" all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or 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 and moral rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent right or form of protection in any part of the world.

"Pre-existing Materials" materials (other than Customer Materials) which existed before the Commencement Date.

"Resource" individual members of the Supplier Project Team as listed in each Statement of Work.

“Services” the services to be provided by the Supplier under the Contract.

“Statement of Work” (“SOW”) the document describing the scope and nature of the Services, the Deliverables, the Supplier’s Project Team, Rate Card, the Location and all related matters listed in the template statement of work set out in the Schedule, to be agreed between the parties in connection with each and every SOW and, on such agreement, to be attached to these T&Cs and form part of them.

“Supplier” Promote Consulting Limited, a limited company registered in England and Wales with company number 11153190 whose registered office is Accountancy House, 90 Walworth Rd, London SE1 6SW

“Supplier’s Project Team” any person (including replacements) engaged by the Supplier to provide the Services and deliver the Deliverables to the Customer on the Supplier’s behalf.

“Supplier’s Engagement Manager” the Supplier’s manager for the Services, appointed in accordance with condition 4.2.

“Supplier’s Rates” the Supplier’s standard fee rates specified in the relevant Statement of Work.

“VAT” value added tax chargeable under English law for the time being and any similar additional tax.

Clause, Schedule and paragraph headings shall not affect the interpretation of these T&Cs.

- 1.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 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 **writing** or **written** does not include faxes or e-mail.
- 1.8 References to clauses and Schedules are to the clauses and Schedules of these T&Cs and references to paragraphs are to paragraphs of the relevant Schedule.

2 Application of T&Cs

- 2.1 The terms and conditions included in these T&Cs will prevail over any terms and conditions of the Customer attached to, enclosed with, or referred to in the Statement of Work, and any terms and conditions implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on the Supplier unless in writing and signed by a duly authorised representative of the Supplier.

3 Effect of Statement of Work

- 3.1 The Customer’s acceptance of the Statement of Work constitutes an offer by the Customer to purchase the Services specified in it, taking into consideration the clauses comprised in these T&Cs; accordingly, the execution and return of the acknowledgement copy of the Statement of Work by the Supplier, or the Supplier’s commencement or execution of work pursuant to the Statement of Work, shall establish a contract for the supply and purchase of those Services, complying with the clauses expressed in the T&Cs.

- 3.2 Each Statement of Work shall be part of these T&Cs. If there is any conflict or ambiguity between the terms of these documents, a term contained in the Statement of Work shall have priority over one contained in the T&Cs.

4 Supplier's Obligations

- 4.1 The Supplier shall use all reasonable commercial endeavours to:
- 4.1.1 provide the Services and deliver the Deliverables to the Customer in accordance (in all material respects) with the Statement of Work; and
 - 4.1.2 meet any 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.
- 4.2 The Supplier shall appoint the Supplier's Engagement Manager who shall have authority to contractually bind the Supplier on all matters relating to the Services. The Supplier shall use all reasonable commercial endeavours to ensure that the same person acts as the Supplier's Engagement Manager throughout the Services but may replace him/her from time to time where reasonably necessary.

5 Supplier's Project Team

- 5.1 At all times, the Supplier shall allocate sufficient resources to enable it to comply with its obligations and shall ensure that the Supplier Project Team members:
- 5.1.1 Are skilled, suitably qualified, adequately trained and capable of providing the Services and delivering the Deliverables in respect of which they are engaged; and
 - 5.1.2 comply with all of the Customer's policies as notified to the Supplier from time to time in writing, including those that apply to persons who are allowed access to the Customer's premises.
- 5.2 Customer may refuse to grant access to, and/or remove from, any of its premises any of the members of the Supplier Project Team who, in its reasonable opinion, are or have been in material breach of the Customer's policies referred to in condition 5.1.2.
- 5.3 Customer may request by written notice to the Supplier stating the reasons for such request, the removal or replacement of any of the members of the Supplier Project Team from the supply of the Services and delivery of the Deliverables on reasonable and relevant grounds. If the Supplier accepts such request it shall, within 2 (two) weeks of receipt of any such notice, replace such person with another person with the necessary training and skills to meet the Supplier's obligations under the Contract.
- 5.4 Customer may, on reasonable grounds expressed by written letter, decline to accept any persons (including replacements) proposed by the Supplier to work on the SOW and in such event the Supplier shall propose an adequately skilled replacement without delay. The Supplier shall ensure the continued availability of each member of the Supplier's Project Team during the SOW. The Supplier shall promptly notify Customer if any member of the Supplier's Project Team is unable to work due to any reason.
- 5.5 Customer shall not be liable for any costs, expenses, losses or liabilities incurred by the Supplier in connection with the removal or replacement of any member of the Supplier Project Team pursuant to condition 5.3.
- 5.6 Supplier undertakes to Customer that, except with the prior written consent of Customer, it shall not at any time during the term of these T&Cs and for the period of 6 months following its termination:
- 5.6.1 employ or offer to employ, or enter into a contract for the services of an employee or consultant of Customer, or procure or facilitate the making of any such offer by any other person;
 - 5.6.2 entice, solicit or procure any employee or consultant of Customer to terminate his employment or engagement by Customer, or make any attempt to do so, whether or not that individual would commit a breach of contract in so terminating.

- 5.7 Supplier will ensure that members of the Supplier Project Team have agreed to confidentiality obligations;
- 5.8 Supplier will procure that members of the Supplier Project Team will comply with all of Customer's reasonable instructions in delivering the Services;
- 5.9 Supplier will procure that members of the Supplier Project Team will comply with any of the Customer's internal policies (including data security policy, and health & safety policy if working from the Customer's premises);
- 5.10 Supplier will comply with all applicable laws in delivering the Services; and

6 Customer's Obligations

- 6.1 The Customer shall:
 - 6.1.1 co-operate with the Supplier in all matters relating to the Services and appoint the Customer's Engagement Manager, who shall have the authority to contractually bind the Customer on matters relating to the Services;
 - 6.1.2 provide such access to the Customer's premises and data, and such office accommodation and other facilities, as may be reasonably requested by the Supplier; and
 - 6.1.3 provide in a timely manner such information as the Supplier may request, and ensure that such information is accurate in all material respects.
 - 6.1.4 pay the charges invoiced by the Supplier related to the provided Services and Deliverables.
- 6.2 Customer undertakes that, except with the prior written consent of Supplier, it shall not at any time during the term of these T&Cs and for the period of 6 months following its termination:
 - 6.2.1 employ or offer to employ, or enter into a contract for the services of an employee or consultant of Supplier, or procure or facilitate the making of any such offer by any other person;
 - 6.2.2 entice, solicit or procure any employee or consultant of Supplier to terminate his employment or engagement by Supplier, or make any attempt to do so, whether or not that individual would commit a breach of contract in so terminating.

7 Change Control

- 7.1 If either party requests a change to the scope of the Services, the Supplier shall, without further charge to the Customer, provide to the Customer within a reasonable time and, in any event, within 2 weeks of the date of the said request, a written estimate of:
 - 7.1.1 the likely time required to implement the change;
 - 7.1.2 any variations to the Supplier's charges arising from the change;
 - 7.1.3 the likely effect of the change on the SOW;
 - 7.1.4 any other impact of the change on the terms of the Contract.
- 7.2 If the Customer does not wish to proceed with the change, there shall be no change to the Statement of Work and
- 7.3 If the Customer wishes the Supplier to proceed with the change, the Supplier shall do so subject always to agreement in writing with the Customer on the necessary variations to its charges, the Statement of Work and the terms in these T&Cs.
- 7.4 If the Supplier requests a reasonable change to the scope of the Services, the Customer shall not unreasonably withhold or delay its consent to such request. Unless the Supplier's request was attributable to Customer's non-compliance with Customer's Responsibilities, neither the Supplier's charges, the SOW, nor any other terms of these T&Cs shall vary as a result of such change.

8 Charges and Payment

- 8.1 Condition 8.2 shall apply if the Services are to be provided on a time-and-materials basis. Conditions 8.3 and **Error! Reference source not found.** shall apply if the Services are to be provided for a fixed price. The remainder of this condition 8 shall apply in either case.
- 8.2 Where the Services are provided on a time-and-materials basis:
- 8.2.1 the charges payable for the Services shall be calculated in accordance with the Suppliers rates as set out in the Statement of Work;
 - 8.2.2 the Supplier's standard daily fee rates are calculated on the basis of an eight-hour day worked between 9.00 am and 6.00 pm on weekdays (excluding weekends and public holidays);
 - 8.2.3 the Supplier shall be entitled to charge at an overtime rate of 100% of the normal rate for part days on normal working days and for time worked by members of the project team outside the hours referred to in condition 8.2.2 on a pro-rata basis; Where the Suppliers work at weekends, the Supplier shall be entitled to charge 150% of the normal rate for work on Saturdays and 200% for work on Sundays. All overtime work at the weekend will need to be approved by the Customer in advance.
 - 8.2.5 the Supplier shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 8. Each invoice shall set out the time spent by each member of the project team and provide a detailed breakdown of any expenses and materials, accompanied by the relevant receipts, subject to clause 8.4.3.
- 8.3 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Statement of Work. The total price shall be paid to the Supplier in instalments against agreed milestones as set out in the Statement of Work. All amounts due under these T&Cs shall be paid by the Customer to the Supplier in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). On achieving an agreed milestone, the Supplier shall invoice the Customer for the charges that are then payable, together with expenses and the costs of materials (and VAT, where appropriate).
- The Supplier's charges exclude:
- 8.4
- 8.4.1 The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the project team in connection with the Services, and the cost of any materials or services reasonably and properly provided by third parties required by the Supplier for the supply of the Services. Such expenses, materials and third party services shall be invoiced by the Supplier at cost price; and
 - 8.4.2 VAT, which the Supplier shall add to its invoices at the appropriate rate.
 - 8.4.3 Where the SOW provides specific provisions for Expenses, the SOW shall prevail over the T&Cs.
- 8.5 The Customer shall pay each invoice submitted to it by the Supplier in full, and in cleared funds, within 30 days of receipt.
- 8.6 Without prejudice to any other right or remedy that the Supplier may have, if the Customer fails to pay the Supplier on the due date the Supplier may charge interest on

such sum from the due date for payment at the annual rate of 2% above the base lending rate from time to time of Barclays Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment; and/or suspend the Services until payment has been received in full.

- 8.7 All charges payable to the Supplier under the Contract shall become due immediately on termination of the Contract, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract. Should the Supplier need to litigate to collect, the Customer will reimburse the Supplier all collection fees.
- 8.8 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

9 Quality of Services

- 9.1. The Supplier warrants to Customer that:
 - 9.1.1 the Supplier will perform the Services in accordance with Good Industry Practice; and
 - 9.1.2 the Services will materially conform with all descriptions and specifications provided to Customer by the Supplier, including any Project Specification and Project Plan set out in the SOW.
- 9.2 Customer's rights under these T&Cs are in addition to the statutory terms implied in favour of Customer by the Consumer Rights Act 2015 and any other statute.
- 9.3 The provisions of this clause 9 shall survive any performance, acceptance or payment pursuant to these T&Cs and shall extend to any substituted or remedial services provided by the Supplier.

10 Intellectual Property Rights

- 10.1 The Supplier acknowledges and agrees that ownership of all Intellectual Property Rights and other rights in relation to the Customer Materials are and shall at all times remain the exclusive property of the Customer. The Customer grants to the Supplier the non-exclusive and non-transferable right to use the Customer Materials for the purpose of exercising the Supplier's rights or performing its obligations under the Contract during the term thereof.
- 10.2 The Customer acknowledges and agrees that ownership of all Intellectual Property Rights and other rights in relation to the Pre-existing Materials are and shall at all times remain the exclusive property of the Supplier. The Supplier grants to the Customer the non-exclusive and non-transferable right to use the Pre-existing Materials in connection with the use by the Customer of the Deliverables.
- 10.3 The Intellectual Property Rights in the Deliverables shall, upon receipt by the Supplier of all charges due to it under the Contract, vest in the Customer. The Supplier assigns from that date (by way of present and, where appropriate, future assignment) all such Intellectual Property Rights with full title guarantee to the Customer.
- 10.4 If the charges invoiced by the Supplier are not entirely paid, the Intellectual Property Rights in the Deliverables shall not be transferred to the Customer.
- 10.5 The Supplier shall (at its own expense) promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may consider necessary to perfect its right, title and interest in and to the Intellectual Property Rights in the Deliverables.

11 Indemnity

- 11.1 The Supplier shall indemnify and hold Customer harmless from all claims and all direct, liabilities, such as: costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, Customer as a result of or in connection with:

- 11.1.1 any alleged or actual infringement, whether or not under English law, of any third party's Intellectual Property Rights or other rights arising out of the use or supply of the products of the Services (including the Deliverables); or
 - 11.1.2 any claim made against Customer in respect of any liability, loss, damage, injury, cost or expense sustained by Customer's employees or agents or by any customer or third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the provision of the Services or the Deliverables as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance of these T&Cs by the Supplier. Such a claim will be limited to a maximum of the two times the fees paid in the previous 12 months under these T&Cs to the Supplier by the Customer or an amount of £100,000 whichever is higher.
- 11.2 During the term of these T&Cs, the Supplier shall maintain in force with a reputable insurance company professional indemnity insurance in an amount not less than £5 million and shall, on Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium.

12 Confidentiality

- 12.1 Subject to conditions 12.2 and 12.3 hereof, each party shall (and shall procure that its employees, agents and subcontractors shall) at all times during the term of the Contract and after its termination, keep all Confidential Information of the other party confidential and accordingly not disclose any such Confidential Information to any other person; and not use any Confidential Information of the other party for any purpose other than the performance of its obligations under the Contract.
- 12.2 Either party may disclose any Confidential Information of the other party to any governmental or other authority or regulatory body; or any of its own employees to such extent only as is necessary for the purposes contemplated by the Contract, or as is required by law.
- 12.3 Either party (the disclosing party) may use Confidential Information of the other party (the owning party) for any purpose, or disclose it to any other person, to the extent only that:
- 12.3.1 it is on the date of the Contract, or becomes, public knowledge through no fault of the disclosing party (provided that in doing so the disclosing party shall not disclose any Confidential Information which is not public knowledge); or
 - 12.3.2 it can be shown by the disclosing party, to the reasonable satisfaction of the owning party, to have been known to it prior to its being disclosed by the owning party to the disclosing party.
- 12.4 Upon termination or expiry of the Contract each party shall immediately return to the other all documents and materials (and all copies thereof) containing the other party's Confidential Information and certify in writing to the other party that it has complied with the requirements of this condition.
- 12.5 The parties acknowledge that monetary damages may not be a sufficient remedy for breach of condition 12.1 and that either party may be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief or specific performance as remedy for any such breach.
- 12.6 All materials, equipment and tools, drawings, specifications and data supplied by either party to the other party, shall (subject to condition 12.3) at all times be and remain the exclusive property of the originating party, but shall be held by the other party in safe custody at its own risk and maintained and kept in good condition by the other party until returned to the originating party, and shall not be disposed of or used other than in accordance with the originating party's written instructions or authorisation.

- 12.7 Each party shall keep the other party indemnified from and against all direct loss (including, without limitation, loss of profit, loss of business, depletion of goodwill and similar loss), damages, injury, costs and expenses (including reasonable legal and other professional fees and expenses) awarded against or incurred or paid by the other party as a result of or in connection with the first party's failure to comply with this condition 12.
- 12.8 The Supplier may not refer to the Customer or this Contract in any publicity or advertising material without first obtaining the Customer's written consent (not to be unreasonably withheld or delayed).
- 12.9 This condition 12 shall survive expiry or termination of the Contract, however arising.

13 Anti-bribery

- 13.1 The SUPPLIER and Customer shall respectively:
- 13.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("**Relevant Requirements**");
 - 13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 13.1.3 have and shall maintain in place throughout the term of these T&Cs its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 1.1.2, and will enforce them where appropriate;
 - 13.1.4 promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by the Party in connection with the performance of these T&Cs;
- 13.2 The Supplier shall ensure that any person associated with it who is performing services in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this condition 13 ("**Relevant Terms**"). The Supplier shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms and shall in all circumstances be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.
- 13.3 For the purpose of this condition 13, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively; and a person associated with the Supplier includes any of the members of its Supplier Project Team.

14 Anti-slavery

- 11.1 The Supplier undertakes, warrants and represents that:
- 11.1.1 neither the Supplier nor any of its employees or subcontractors has:
 - (a) committed an offence under the Modern Slavery Act 2015 (a "T&Cs Offence"); or
 - (b) been notified that it is subject to an investigation relating to an alleged T&Cs Offence or prosecution under the Modern Slavery Act 2015; or
 - (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged T&Cs Offence or prosecution under the Modern Slavery Act 2015;
 - 11.1.2 it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy; and

11.1.3 it shall notify the Customer immediately in writing if it becomes aware or has reason to believe that it, or any of its employees or subcontractors have breached or potentially breached any of Supplier's obligations under Clause 11.1.1. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Supplier's obligations.

11.2 Any breach of Clause 11.1 by the Supplier shall be deemed a material breach of the Contract and shall entitle the Customer to terminate the Contract with immediate effect.

15 Data Protection and integrity

15.1 The following definitions apply:

15.1.1 the terms "data controller", "data processor", "data subject", "processing" and "data protection principles" bear the respective meanings given them in the EU General Data Protection Regulation 2016/679 of 27 April 2016 (GDPR);

15.1.2 data includes Personal Data; and

15.1.3 Customer Personal Data and Supplier Personal Data mean any Personal Data provided by or on behalf of the Customer or the Supplier, respectively.

15.1.4 It during the provision there is any data processing, the Parties will sign a Data Processing Agreement, according to GDPR, establishing the obligations for Customer, as data controller, and Supplier, as data processor.

15.2 Both Parties shall:

15.2.1 only carry out processing of any Personal Data on the other party's instructions;

15.2.2 implement appropriate technical and organisational measures to protect any Personal Data against unauthorised or unlawful processing and accidental loss or damage; and

15.2.3 only transfer Personal Data with previous approval by the other party, to countries outside the European Economic Area that ensure an adequate level of protection for the rights of the data subject, always signing the standard clauses for data export stated by the GDPR and included in the DPA.

15.3 Either party shall promptly and fully notify the other party in writing of any notices in connection with the processing of any Personal Data, including subject access requests, and provide such information and assistance as each may reasonably require.

15.4 Except as expressly provided otherwise, these T&Cs do not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights in any (non-personal) data.

15.1 The Customer and the Supplier agree to sign an Addendum these T&Cs to cover the provisions of the General Data Protection Regulation (EU) 2016/679 to specify the roles of the Customer as the Data Controller and the Supplier as the Data Processor. The Addendum is part of these T&Cs.

16 Warranties

16.1 The Supplier represents and warrants to the Customer that:

16.1.1 the Services will be performed in accordance with all applicable laws and regulations and with all reasonable skill and care;

16.1.2 to the best of its knowledge and belief, the Deliverables will not infringe the UK Intellectual Property Rights of any third party; and

- 16.1.3 as at the Commencement Date, the Supplier has obtained, and will maintain for the term of the Contract, all permissions, licences and consents necessary for it to perform the Services.
- 16.2 If, during the term of this Contract, the Supplier receives written notice from the Customer of any breach by the Supplier of the representations and warranties contained in condition 16.1, the Supplier shall, at its own option and expense, remedy that breach within a reasonable period following receipt of such notice, or terminate the Contract immediately on written notice to the Customer and repay to the Customer all sums which the Customer has paid to the Supplier under the Contract during the year in which the termination occurs, less a charge for the Services performed up to the date of termination. The Customer shall provide all information reasonably necessary to enable the Supplier to comply with its obligations under this condition 16.2. This condition sets out the Customer's sole remedy and the Supplier's entire liability for breach of condition 16.1.
- 16.3 No representation or warranty is given by the Supplier that all faults will be fixed, or will be fixed within a specified period of time.
- 16.4 All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into these T&Cs or any collateral contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose and the use of reasonable skill and care.

17 Limitation of Liability

- 17.1 The following provisions set out the entire financial liability of either party (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the other in respect of:
 - 17.1.1 any material breach of the Contract howsoever arising;
 - 17.1.2 any use made by the Customer of the Services, the Deliverables or any part of them; and
 - 17.1.3 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.
- 17.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 17.3 Nothing in these conditions excludes the liability of the Supplier:
 - 17.3.1 for death or personal injury caused by the Supplier's negligence; or
 - 17.3.2 for fraud or fraudulent misrepresentation.
- 17.4 Subject to condition 16.2 and condition 16.3:
 - 17.4.1 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:
 - 17.4.1.1 loss of profits; or
 - 17.4.1.2 loss of business; or
 - 17.4.1.3 depletion of goodwill or similar losses; or
 - 17.4.1.4 loss of anticipated savings; or
 - 17.4.1.5 loss of goods; or
 - 17.4.1.6 loss of contract; or
 - 17.4.1.7 loss of use; or
 - 17.4.1.8 loss or corruption of data or information; or

17.4.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and

17.4.2 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 the price paid for the Services.

18 Termination

18.1 Either party may terminate these T&Cs in its sole discretion only upon ninety (90) days prior written notice to the other party. In no event shall termination by either party relieve the other party of obligations already incurred.

18.2 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:

18.2.1 the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than thirty days after being notified in writing to make such payment;

18.2.2 the other party commits a material breach of any other term of the Contract 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;

18.2.3 the other party repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the T&Cs;

18.2.4 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;

18.2.5 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;

18.2.6 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;

18.2.7 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;

18.2.8 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;

18.2.9 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;

18.2.10 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; or

- 18.2.11 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 condition 14.1.4 to condition 14.1.10 (inclusive).
- 18.3 In the event of termination of the Contract for any reason:
 - 18.3.1 the Customer's right to receive the Services shall cease automatically and each party shall as soon as reasonably practicable:
 - 18.3.1.1 return, destroy or permanently erase (as directed in writing by the other party) any documents, handbooks, CD-ROMs or DVDs or other information or data provided to it by the other party containing, reflecting, incorporating or based on Confidential Information belonging to the other party; and
 - 18.3.1.2 return all of the other party's equipment and materials, failing which, the other party may enter the relevant premises and take possession of them. Until these are returned or repossessed, the party in possession shall be solely responsible for their safe-keeping;
 - 18.3.1 the Customer shall immediately pay any outstanding unpaid invoices and interest due to the Supplier. The Supplier shall submit invoices for any Services that it has supplied, but for which no invoice has been submitted, and the Customer shall pay these invoices immediately on receipt;
 - 18.3.2 If the Services are being delivered on a Fixed Price basis all milestone payments that have become due will be paid and all services delivered since the last due milestone will be invoiced by the Supplier on a Time and Materials basis. The Customer shall pay these invoices immediately on receipt;
- 18.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

19 Language

- 19.1 The Contract is drafted in English.
- 19.2 Any notice given under or in connection with the T&Cs shall be in English. All other documents provided under or in connection with the T&Cs shall be in English or accompanied by a certified English translation.
- 19.3 The English language version of the T&Cs and any notice or other document relating to it, shall prevail if there is a conflict.

20 Force Majeure

The Supplier 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 the Supplier 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-contractors.

21 Waiver

No failure or delay by a party to exercise any right or remedy provided under the Contract 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.

22 Rights and Remedies

The rights and remedies provided under the T&Cs are in addition to, and not exclusive of, any rights or remedies provided by law.

23 Severance

23.1 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.

23.2 If any provision or part-provision of the Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

24 Entire Agreement

24.1 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.

24.2 Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract.

24.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

25 Assignment

Neither party shall without the prior written consent of the other (such consent not to be unreasonably withheld or delayed) assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

26 No Partnership or Agency

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

27 Third Party Rights

No one other than a party to the Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.

28 Notices

28.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be:

28.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a registered company), or in any other case its principal place of business;

28.1.2 or by email to the relevant email address given in the Statement of Work.

28.2 Any notice or communication shall be deemed to have been received:

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

- 28.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second working day after posting or at the time recorded by the delivery service; or
- 28.2.3 if sent by email, at 9.00 am on the next Business Day after transmission.
- 28.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall include e-mail.

29 Disputes

- 29.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (Dispute) then the parties shall follow the procedure set out in this condition:
- 29.1.1 either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the [EMPLOYEE TITLE] of the Supplier and [EMPLOYEE TITLE] of the Customer shall attempt in good faith to resolve the Dispute;
- 29.1.2 if the [EMPLOYEE TITLE] of the Supplier and [EMPLOYEE TITLE] of the Customer are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the [SENIOR OFFICER TITLE] of the Supplier and [SENIOR OFFICER TITLE] of the Customer who shall attempt in good faith to resolve it; and
- 29.1.3 if the [SENIOR OFFICER TITLE] of the Supplier and [SENIOR OFFICER TITLE] of the Customer are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of service of the Dispute Notice, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. Unless otherwise agreed between the parties, the mediation will start not later than 14 days after the date of the ADR notice.
- 29.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under condition 28 which shall apply at all times.

30 Governing Law

The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation non-contractual disputes or claims) are governed by and construed in accordance with the law of England and Wales.

31 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 the Contract or its subject matter (including non-contractual disputes or claims).

Customer	Supplier
	Promote Consulting Limited
Authorised Signatory	Authorised Signatory
Name	Rory Grumley
Position	Director
Date	Date