

## TERMS AND CONDITIONS

The customer's attention is drawn in particular to the provisions of condition 11.

### 1. Definitions and interpretation

1.1 In these Conditions, the following definitions apply:

<b>"Applicable Law"</b>	in England any and all applicable laws, regulations and industry standards or guidance (including without limitation any applicable British Standard) and any applicable and binding judgment of a relevant court of law;
<b>"Business Day"</b>	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
<b>"Charges"</b>	the charges payable by the Customer for the supply of the Services in accordance with condition 5;
<b>"Commencement Date"</b>	has the meaning given in condition 2.3;
<b>"Conditions"</b>	the terms and conditions set out in this document as amended from time to time in accordance with condition 13.3;
<b>"Confidential Information"</b>	any and all know-how, documentation and information, whether commercial, financial, technical, operational or otherwise, relating to the business, affairs, customers, suppliers, employees, affiliates, products and/or methods of the Supplier and disclosed to or otherwise obtained by the Customer in connection with the Contract;
<b>"Contract"</b>	the contract between the Supplier and the Customer for the supply of Services which incorporates these Conditions, the Order and any specification agreed between the Supplier and Customer from time to time;
<b>"Customer"</b>	the person or firm who purchases Services from the Supplier;
<b>"Customer Materials"</b>	all materials, equipment and tools, drawings, specifications and data supplied or made available by the Customer to the Supplier;
<b>"Deliverables"</b>	all documents, products and materials developed by the Supplier or the Supplier Personnel as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer

programs, data, specifications and reports (including drafts);

<b>"Force Majeure Event"</b>	has the meaning given in condition 12;
<b>"Intellectual Property Rights"</b>	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade 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, rights in computer software, 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;
<b>"Order"</b>	the Customer's order for the supply of the Services, as set out in the Customer's purchase order form;
<b>"Services"</b>	the services, including any Deliverables, to be provided by the Supplier under the Contract;
<b>"Supplier"</b>	Lead Wolf Digital Ltd whose registered office is at Salix House Waters Edge, Wansford, Peterborough, PE8 6LH (registered in England and Wales with company number 12023161);
<b>"Supplier Materials"</b>	all materials, equipment and tools, drawings, specifications and data supplied or made available by the Supplier to the Customer; and
<b>"Supplier Personnel"</b>	the personnel including subcontractors engaged by the Supplier in the performance of the Contract.

1.2 In these Conditions, the following rules apply:

1.2.1 a reference to a statute or statutory provision is a reference to such statute or provision as amended, re-enacted or superseded and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.2 any phrase introduced by the terms **"including"**, **"include"**, **"in particular"** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

- 1.2.3 save for any notice given to a party under or in connection with the Contract in accordance with condition 13.6, a reference to "**writing**" or "**written**" includes emails.

## 2. **Basis of contract**

- 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2 The Order constitutes an offer by the Customer to purchase the Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, (which maybe automated via our website) at which point the Contract shall come into existence ("**Commencement Date**"). Once the Contract comes into existence, the Customer shall not cancel or vary the Order without the Supplier's express written consent. The Supplier reserves the right to charge the Customer reasonable cancellation charges in the event of any such cancellation.
- 2.4 Any samples, drawings, descriptive matter, or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.5 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any document that is inconsistent with these Conditions.

## 3. **Performance of the Services**

- 3.1 The Contract shall commence on the Commencement Date as specified in the Order. Unless terminated earlier in accordance with condition 11, the Contract shall continue in full force and effect renewing annually unless either party gives to the other party not less than 30 days' notice before the annual anniversary of the commencement date.
- 3.2 The Supplier shall from the date specified in the Order and for the duration of the Contract provide the Services to the Customer in accordance with the Contract in all material respects.
- 3.3 The Supplier shall use reasonable endeavours to perform the Services by the date(s) specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.4 The Supplier does not guarantee uninterrupted and/or reliable access to the Services, that the Services will be error free and makes no guarantees as to its operation, functionality or otherwise.

3.5 The Supplier warrants that it shall provide the Services with reasonable care and skill. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

#### 4. **Customer obligations**

4.1 The Customer shall:

4.1.1 co-operate with the Supplier in all matters relating to the Services;

4.1.2 provide such information to the Supplier as the Supplier may reasonably request for the purpose of providing the Services and ensure that such information is accurate in all material respects;

4.1.3 obtain and maintain all necessary licences, permissions and consents which may be required before the Commencement Date;

4.1.4 provide and maintain all necessary legal notices which may be required for the purpose of providing the Services and ensure that such information is accurate in all material respects;

4.1.5 comply with all Applicable Law with respect to its activities under the Contract; and

4.1.6 not reproduce, duplicate, copy, scrape, or re-sell any part of the Services.

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

4.2.1 the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default;

4.2.2 the Supplier shall not be liable for any losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this condition 4.1.6; and

4.2.3 the Customer shall reimburse the Supplier on demand for any losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

#### 5. **Charges and payment**

5.1 The Charges for the Services shall be the charges set out in the Order (as of May 2022 these shall be £57 per month ex VAT) and can be viewed via the Customer's online account.

5.2 Any additional Services not set out in the Order shall be charged in accordance with the Supplier's written quotation.

- 5.3 The Charges exclude amounts in respect of UK value added tax ("**VAT**"), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice.
- 5.4 Payment of the Charges plus VAT at the prevailing rate (if applicable) will be made in pound sterling via quarterly direct debit in accordance with the terms of the Order.
- 5.5 The Supplier may invoice the Customer for the Charges for any additional Services not set out in the Order plus VAT at the prevailing rate (if applicable).
  - 5.5.1 The Customer shall pay each invoice in full and in cleared funds within 7 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.
- 5.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 5.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 6. **Intellectual Property Rights**

- 6.1 Unless otherwise agreed in writing, all Intellectual Property Rights arising in the performance of the Services (including the Deliverables) shall be owned by the Supplier.
- 6.2 The Customer may use the Deliverables only for the purpose of receiving the Services. The Customer shall not supply the Deliverables to any third party or use the Services or the Deliverables to provide a service to any third party.
- 6.3 All Supplier Materials are the Supplier's exclusive property and all Customer Materials are the Customer's exclusive property.
- 6.4 The Supplier grants a non-exclusive, royalty-free licence to the Customer for the term of the Contract to use the Services (together with all Intellectual Property Rights in the same) provided under the Contract for the purpose of the exercising its rights under the Contract.
- 6.5 The Customer shall indemnify the Supplier against all reasonable liabilities, costs, expenses, damages and losses suffered or incurred by the Supplier as a direct result of any claim made against the Supplier for infringement of a third party's Intellectual Property Rights arising out of or in connection with the use of the Customer Materials or compliance with any specifications supplied by the Customer.

## 7. **Liability**

- 7.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- 7.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 7.1.2 fraud or fraudulent misrepresentation;
  - 7.1.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982; or
  - 7.1.4 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.
- 7.2 Subject to condition 7.1:
- 7.2.1 the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, or otherwise, for:
    - 7.2.1.1 any indirect, special, consequential or pure economic loss or damage;
    - 7.2.1.2 any loss of profits, anticipated profits, revenue or business opportunities; or
    - 7.2.1.3 damage to goodwill,(in each case arising as a direct or indirect result of the relevant claim); and
  - 7.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the Charges payable by the Customer in any relevant 3 month period. For the purposes of this condition, relevant 3 month period means the 3 months immediately prior to the first act and/or omission giving rise to the liability.

## 8. **Confidentiality**

- 8.1 Subject to condition 8.2, the Customer shall:
- 8.1.1 use the Supplier's Confidential Information solely for the performance of the Contract; and
  - 8.1.2 keep the Supplier's Confidential Information strictly confidential and not, without the Supplier's prior written consent, disclose it to any other person.
- 8.2 The Customer may disclose the Supplier's Confidential Information:
- 8.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the Supplier's rights or carrying out

its obligations under or in connection with the Contract and the Customer shall ensure that such persons comply with this condition 8.2;

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

8.2.3 if such information is public knowledge or already known to the Customer at the time of disclosure or subsequently becomes public knowledge other than by breach of any duty of confidentiality (contractual or otherwise).

8.3 This condition 8 shall survive termination of the Contract.

## 9. **Non-solicitation**

9.1 Neither party shall on its own account or in partnership or association with any person, whether directly or indirectly, during the term of this Agreement and for a period of six months following its termination or expiry solicit or entice away any person employed or engaged by the other party in the provision or receipt of the Services or attempt or authorise such action.

9.2 If a party breaches condition 9.1 it shall pay to the other party the greater of:

9.2.1 the relevant individual's gross annual salary inclusive of all benefits at the time of their resignation or departure; and

9.2.2 the equivalent of 50% of the relevant individual's new annual salary or fee inclusive of all benefits, such sum being deemed by both parties to be fair compensation for the loss suffered as a result of such breach.

9.3 Employment as a result of a bona fide general recruitment campaign or advertisement shall not be a breach of the provisions of condition 9.1.

## 10. **Data protection**

10.1 For the purposes of this condition 10, the following definitions shall apply:

**"Business Contact Data"** means the business contact information of personnel engaged by either party to the Contract, specifically the name, business telephone number, business email address, business postal address and/or the job role or title of such personnel;

**"Data Controller"** has the meaning given to "controller" in the Data Protection Act 2018;

**"Data Protection Laws"** the Data Protection Act 2018, GDPR, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and any relevant law implemented as a result of GDPR (each as amended, updated, superseded or re-enacted from time to time);

**"Data Subject"** has the meaning given in the Data Protection Act 2018 or (as applicable) the GDPR;

**"GDPR"** means the General Data Protection Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;

**"Information Requirements"** means the information mandated to be supplied to Data Subjects in accordance with GDPR Article 13 and/or 14 (as applicable), at a time, in a format, and containing the content required under Data Protection Laws and the relevant Information Commissioner guidance issued by the Article 29 Working Party/EDPB and /or the UK Supervisory Authority;

**"Personal Data"** has the meaning given in the Data Protection Act 2018 or (as applicable) the GDPR;

**"processing"** has the meaning given in the Data Protection Act 2018 or (as applicable) the GDPR and **"process"** and **"processed"** have corresponding meanings;

**"sub-processor"** means a third party who processes Personal Data on a party's behalf.

## **Roles of the parties**

- 10.2 The parties acknowledge and agree that for the purposes of the Contract:
  - 10.2.1 each party is a Data Controller for the Personal Data it processes in connection with the Contract;
  - 10.2.2 each party is responsible for its own compliance with Data Protection Laws with regards to its processing of Personal Data; and
  - 10.2.3 the only Personal Data intended to be transferred between the parties under the Contract is Business Contact Data.

## **Obligations**

- 10.3 If a party (the **"Disclosing Party"**) discloses Business Contact Data to the other party (the **"Recipient Party"**), the Disclosing Party shall:
  - 10.3.1 ensure that the transmission is lawful; and
  - 10.3.2 ensure that the appropriate Information Requirements have met in respect of the applicable Data Subjects.
- 10.4 The Recipient Party shall only process the Disclosing Party's Business Contact Data in compliance with Data Protection Laws and only to the extent necessary to achieve the purposes of effecting the Contract and performing its obligations under the Contract or for compliance with a legal obligation.
- 10.5 The parties shall only transfer Business Contact Data outside of the European Economic Area with an appropriate safeguarding mechanism in place under GDPR Chapter V (international transfers).



10.6 In the event that condition 10.2.3 becomes or will become inaccurate or incomplete before the expiry or termination of the Contract the parties agree to negotiate in good faith as soon as reasonably practicable contractual terms which will:

10.6.1 reflect the Personal Data being transmitted between the parties; and

10.6.2 ensure that the transmission and processing of such Personal Data complies with all applicable requirements under Data Protection Laws.

## 11. Termination

11.1 Without limiting its other rights or remedies, either party may terminate the Contract with immediate effect by giving written notice to the other party if the other party:

11.1.1 commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 15 days of being notified in writing to do so;

11.1.2 (being a body corporate) is declared or becomes insolvent, has a moratorium declared in respect of any of its indebtedness, enters into administration, receivership, administrative receivership or liquidation or threatens to do any of these things or takes or suffers any similar action in any jurisdiction or any step is taken (including the making of an application, the entering into of a board resolution or the giving of any notice) by it or by any other person in respect of any of these circumstances (an "**Insolvency Event**");

11.1.3 (being an individual) is declared bankrupt, enters into any composition or arrangement with his creditors, has a receiver appointed to any of his assets, or ceases to carry on business takes or suffers any similar action in any jurisdiction or any step is taken (including the making of an application or the giving of any notice) by him or any other person in respect of any of these circumstances) (also an "**Insolvency Event**") (or, the other party being a partnership, has a partner to whom any Insolvency Event applies);

11.1.4 (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or

11.1.5 suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

11.2 Without limiting its other rights or remedies, the Supplier may:

11.2.1 within 14 days of placing an Order, amend or cancel the Contract by written notice to the Customer, provided that the Supplier has not commenced the supply of Services;

11.2.2 terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on

the due date for payment and fails to pay all outstanding amounts within 21 days after being given written notice to do so; or

11.2.3 suspend provision of the Services under the Contract or any other contract between the Supplier and the Customer if the Customer becomes subject to an Insolvency Event or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

11.3 On termination of the Contract for any reason:

11.3.1 the Customer shall immediately pay to the Supplier all the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which the Customer shall pay immediately on receipt;

11.3.2 the Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for;

11.3.3 the parties' rights and remedies that have accrued as at termination shall be unaffected; and

11.3.4 conditions that expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 12. **Force majeure**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A "**Force Majeure Event**" means any event which hinders, delays or prevents performance of a party's obligations and which is either beyond that party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure or interruption of energy sources, other utility service or transport network, acts of God, war, threat of or preparation for war, armed conflict, terrorism, riot, civil commotion, interference by civil or military authorities, sanctions, embargo, export or import restriction, quota or prohibition, breaking off of diplomatic relations, national or international calamity, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosion, collapse of building structures, fire, flood, drought, storm, earthquake, volcanic eruption, loss at sea, epidemic, pandemic or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

## 13. **General**

### 13.1 **Assignment and subcontracting**

13.1.1 The Supplier may at any time assign, transfer, mortgage, charge, declare a trust over, subcontract, delegate or deal in any other manner with any or all of its rights or obligations under the Contract.

13.1.2 The Customer shall not assign, transfer, mortgage, charge, declare a trust over, subcontract, delegate or deal in any other manner with any or all of its rights or obligations under the Contract without the Supplier's written consent.

**13.2 Entire agreement**

The Contract (incorporating these Conditions) 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. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

**13.3 Variation**

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Supplier.

**13.4 Waiver**

Except as set out in condition 2.5, 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 or 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.

**13.5 Severance**

If any 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 shall be deemed deleted. Any modification or deletion of a provision under this condition shall not affect the validity and enforceability of the rest of the Contract.

**13.6 Notices**

13.6.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or by a signed-for next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

13.6.2 Any notice shall be deemed to have been received:

13.6.2.1 if delivered by hand, on signature of a delivery receipt or, if not signed for, at the time the notice is left at the correct address;

13.6.2.2 if sent by pre-paid first-class post, at 09:00 on the second Business Day after posting; and

13.6.2.3 if sent by a signed-for next working day delivery service, at the time recorded by the delivery service.

13.6.3 This condition 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.

13.6.4 A notice given under the Contract is not valid if sent by fax or email.

**13.7 Third party rights**

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

**13.8 Relationship**

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the Supplier and the Customer, constitute either party the agent of the other party or authorise either party to make or enter into any commitments for or on behalf of the other party.

**13.9 Governing law**

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

**13.10 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 or formation (including non-contractual disputes or claims). Nothing in this condition shall limit the Supplier's right to take proceedings against the Customer in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdictions.