

# COMMUNICORP UK LIMITED TERMS AND CONDITIONS

## GENERAL TERMS

### 1. INTRODUCTION

- 1.1 These terms and conditions ("Ts & Cs") apply to services ("Services") supplied by Communicorp UK Limited ("we", "us" or "our"). The Ts & Cs comprise the General Terms and the terms in the Schedules. Please refer to the relevant Schedule (or Schedules) for the specific terms that apply to the Services you purchase from us. Not all Schedules will be relevant to the Services you have asked us to provide.
- 1.2 In these Ts & Cs, "you" (or "your") refers to the person identified in the Order Form as the party whose Order we accept. Where you act through an Advertising Agent, references to you include that person.
- 1.3 Please read these Ts & Cs carefully. We draw your attention particularly to clause 11 below (Limitations of Liability and Indemnity).
- 1.4 These terms cover the following products and any other products to which these terms are expressed to apply (**Products**).

SCHEDULES	PRODUCTS			
A Radio Advertising	Airtime	Sponsorship	Prize Funds	Commercial Production
B Market Research	Research			
C Website Development	Web Development			
D Design	Design	Creative Led Design	Audio Branding	Digital Creative
E Experiential	Experiential			
F Digital Services	Branded Podcasts	Video	Creative Led Video	Hosting
G VoiceSkills	Voiceskills	Voice Technology	Audio Content	
H GOMO Products	iVan Hire	iWalker Hire	iProjector Hire	
J Podcast Advertising	SSPN	Other Podcast Networks		

### 2. DEFINITIONS AND INTERPRETATION

- 2.1 In the General Terms and the Schedules the following definitions apply:

"Advertisement" any advertising material (including any promotion, sponsorship, tagline or microsite) provided by you or an Advertising Agent for broadcast, transmission, publication or other delivery on any of the radio stations, websites, mobile or other platforms on which the Campaign is being broadcast;

"Advertising Agent" the advertising agency, if any, acting on your behalf;

“Affiliate”	a subsidiary or holding company (as defined in section 1159, Companies Act of 2006) of a company, or another such subsidiary of its holding company (as so defined);
“Applicable Laws”	any EU or UK laws applicable to us which require us to process personal data in any way;
“ASA”	the Advertising Standards Authority;
“Assigned Intellectual Property Rights”	all of the Intellectual Property Rights created by us specifically for you in the Deliverables (or parts of them) and excluding any Intellectual Property Rights in the Deliverables (or parts of them) which are Third-Party Intellectual Property Rights or which we did not create specifically for you (for the avoidance of doubt, no Intellectual Property Rights will be created by us specifically for you where we have not expressly confirmed that we will do so in writing);
“BCAP”	the UK Code of Broadcast Advertising;
“Broadcast”	includes broadcast, transmission, publication, use or other delivery on radio stations, websites, mobile or other platforms (as appropriate); and “the Broadcast” means the broadcasting of the Advertisement as part of the Campaign;
“Business Day”	a day other than Saturday or Sunday or a bank holiday in England and Wales;
“Campaign”	the delivery of the Advertisement according to these Ts & Cs and during the time period set out in the Order Form or as otherwise agreed in writing between you and us;
“CAP”	the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing;
“Claim”	has the meaning given in in clause 12.2;
“Client Materials”	all documents, information, items and materials in any form, whether owned by you or a third party, which are provided by you (or on your behalf) to us in connection with the Services;
“Change Order”	Has the meaning given in clause 10.1;
“Communicorp UK”	Communicorp UK Limited (company no: NI622021) having its registered office at The Ewart, 3 Bedford Square, Belfast, Northern Ireland, BT2 7EP with VAT registration number GB185454580;
“Contract”	the contract for the Services comprising the Order Form and these Ts & Cs;
“Control”	has the meaning given in section 450 of the Corporation Taxes Act 2010;

“Copy”	the content, design and appearance of (i) any proposed Advertisement which we agree to broadcast or (ii) any Client Materials that will be displayed on any Gomo Products;
“Data Protection Legislation”	the EU General Data Protection Regulation (GDPR), the UK Data Protection Act 2018 (DPA) and any EU or UK legislation supplementing, amending or replacing the GDPR or the DPA, including (where applicable) the guidance and codes of practice issued by the Information Commissioner or any other relevant authority;
“Delivered”	The successful Insertion of an Advertisement in accordance with the Order.
“Deliverables”	any output of the Services to be provided by us to you as specified in the General Terms, Schedules and any other documents, products and materials provided by us to you in relation to the Services (but excluding any of our property or equipment);
“Digital Content Production”	the provision and production of podcasts, including recording and engagement of individuals for content, the provision and production of video content and other digital content production;
“Event”	the experiential or marketing event or promotion we organise pursuant to these Ts & Cs;
“Expenses”	all expenses incurred or to be incurred in connection with the Services, including (to the extent applicable) materials and services, travel and subsistence, artwork, photography, mechanical artwork handling, typesetting, art direction, printing, the costs of hiring a venue and the fees of outside consultants and, save where we are sub-contracting the whole or a substantial part of the Services, sub-contractors;
“General Terms”	the terms and conditions in the main body of these Ts & Cs;
“Gomo Products”	iProjector, iVan and iWalker;
“Host Read Adverts”	Adverts which are read out by a host of the podcast/ show;
“Hosting”	hosting of digital content on our servers;
“Impression”	How often an Advertisement is heard, seen or shown;
“iProjector”	a projector used to project on a variety of surfaces as further specified in the Order Form;
“iVan”	an advertising van with video screens which may be used on public roads or, with the relevant consents, driven to and parked at an event;
“iWalker”	is wearable technology which is worn by individuals (who can walk with it on) with an overhead video screen which displays event details or advertising;

“Losses”	losses, damages, liabilities, claims, demands, actions, penalties, fines, awards, costs and expenses (including reasonable legal and other professional expenses), subject to clause 11.1;
“Order”	an order to us to supply the Services in relation to a Campaign or Project or otherwise;
“Order Form”	the order form we supply in connection with an Order, including the details of the Campaign, Project and/or other Services, the agreed commercial terms and delivery schedule;
“Pre-Emptible Sponsorships”	A sponsorship that is sold at a discounted price that may be terminated on notice by us;
“Price”	the sums payable to us for the Services (including Expenses where applicable), as shown on the Order Form;
“Products”	has the meaning given in clause 1.4 of the General Terms;
“Promotional Prize”	has the meaning given in clause 4.4 of the General Terms;
“Project”	means any discrete project agreed between the parties from time to time under which we are to perform Services and/or supply Deliverables to you, as more fully described in these Tc & Cs and the Order Form and in the case of Advertising shall mean a Campaign;
“Radiocentre”	Radiocentre Ltd (or any successor organisation);
“Services”	the services that we agree to supply under these Ts & Cs;
“Specification”	the specification of the Deliverable(s) set out in the Order Form and, where applicable, any more detailed technical specification that has been approved by us and, where the Order Form contains details of the Campaign Delivery, the Campaign Delivery;
“SSPN”	The Sports Social Podcast Network
“Third-Party Intellectual Property Rights”	all Intellectual Property Rights comprised in the Deliverables which are not created by or owned by the parties to the Contract.

2.2 In these Ts & Cs, references to clauses, schedules and appendices are to clauses of and schedules to and appendices to these Ts & Cs. The Schedules form part of these Ts & Cs.

2.3 Where any provision contained in the Schedules, General Terms or an Order Form conflicts with any provision the following order of precedence shall apply:

2.3.1 Schedules;

- 2.3.2 General Terms;
- 2.3.3 Order Form.
- 2.4 Unless the context otherwise requires:
  - 2.4.1 a person includes a legal person (such as a limited company) as well as a natural person;
  - 2.4.2 the words “include” and “including” or any similar term shall be construed without limitation; and
  - 2.4.3 any reference to an enactment of legislation includes any subordinate legislation made from time to time under it and is to be construed as references to that enactment as from time to time amended or modified or any enactment replacing it.
- 2.5 The headings in these Ts & Cs are for ease of reference only and shall be disregarded in construing or interpreting the Contract.

### **3. FORMATION OF THE CONTRACT**

- 3.1 These Ts & Cs govern any contract for the supply of Services by us, to the exclusion of any other terms and conditions subject to which you make, or purport to make, an Order.
- 3.2 Any Order must be submitted using the Order Form, signed by you or your authorised representative and sent to us in the manner shown on the Order Form. The Order Form may be signed electronically using DocuSign or other form of electronic or digital signature.
- 3.3 No contract exists between you and us for the supply of any Services until we receive your signed Order Form and the earlier of:
  - 3.3.1 us sending you confirmation of our acceptance of the Order by email to you or your authorised representative; or
  - 3.3.2 us commencing provision of the Services,following which there is a binding legal contract between you and us.
- 3.4 Once an Order has been accepted by us, no variation to the Order or these Ts & Cs will be binding unless agreed in writing between your authorised representative and ours.
- 3.5 We may change these Ts & Cs from time to time without notice to you in relation to future Orders.

### **4. YOUR OBLIGATIONS**

- 4.1 You will give us full and clear instructions as to your requirements for the Services to be included in an Order Form, including full details of the dates by which each stage of the proposed Services are to commence and finish (where applicable). You will ensure that all the facts given to us in connection with Services are accurate and shall act in willing co-operation with us in all matters relating to the Services.
- 4.2 You will promptly supply to us (at no charge) any Client Materials reasonably required by us or otherwise necessary to provide the Services and Deliverables and shall ensure that you have all rights and licences in place to enable use by us of all Client Materials.
- 4.3 If you do not fulfil your obligations under or in connection with these Ts & Cs (including your payment obligations), then to the extent that such failure prevents us from performing any Services and/or providing any Deliverables in accordance with these Ts & C, we will be

relieved of our obligations to you, and we shall not be liable for any Losses incurred by you as a result of any such failure.

- 4.4 Unless otherwise agreed between you and us in writing, you shall be responsible for sourcing any promotional gift or prize being offered to the public or entrants to a promotion ("Promotional Prize"). As such, you shall be liable for, and hereby indemnify us against any and all Losses incurred as a result of any such Promotional Prize, including any claim by a third party arising out of the use or enjoyment of such Promotional Prize.
- 4.5 Where you are to provide any Promotional Prize and/or other rewards to any person in connection with the Services, you must provide those prizes and/or rewards no later than five Business Days after the relevant person becomes entitled to them.

## **5. THE SERVICES**

- 5.1 We agree to supply the Services on the basis shown on the Order Form, subject to these Ts & Cs.
- 5.2 We reserve the right not to accept any Order for any reason at our discretion.
- 5.3 All Specifications are approximate only and shall not form part of the Contract unless expressly stated in the Order Form. Any non-material deviation from or variation of the Specification by us shall not constitute a breach of the Contract.
- 5.4 We reserve the right to alter the Specifications and the Services (as we reasonably see fit) without prior reference to you so long as the Services shall comply in all material respects with your requirements known to us.

## **6. INTELLECTUAL PROPERTY RIGHTS**

- 6.1 Unless otherwise specified in the relevant Schedule:
  - 6.1.1 we and our licensors shall retain ownership of all Intellectual Property Rights in the Deliverables, excluding the Client Materials,
  - 6.1.2 you and your licensors shall retain ownership of all Intellectual Property Rights in the Client Materials;
  - 6.1.3 where we use the Client Materials for the Services, but make additions or alterations to it by agreement with you, we will own all copyright and other Intellectual Property Rights in respect of those additions or alterations, to the extent they are severable from the Client Materials;
  - 6.1.4 we grant you, or shall procure the direct grant to you of, a fully paid-up, worldwide, non-exclusive, royalty-free licence during the term of the Contract to copy and modify the Deliverables (excluding the Client Materials) for receiving and using the Services and the Deliverables for your reasonable business purposes (but you shall have no right to sub-license, assign or otherwise transfer the rights granted in this clause); and
  - 6.1.5 you grant us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Client Materials for the term of the Contract for the purpose of providing the Services.
- 6.2 You warrant that the receipt and use of the Client Materials in the performance of the Contract by us, our agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party.

- 6.3 You shall indemnify us (together with our directors, employees or authorised agents) in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with any claim brought against us, its agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights, arising out of, or in connection with, the receipt or use in the performance of the Contract of the Client Materials

## **7. PAYMENT TERMS**

- 7.1 Unless we otherwise agree in writing with you or the relevant Schedule provides otherwise, the Price for the Services, as shown on the Order Form, will be invoiced in advance of the Services being provided and must be paid in advance in cleared funds at least 10 days prior to the start of the Services being provided. Please refer to Schedules for details of when we accept payment of the Price on other terms.
- 7.2 Where you are providing a cash prize as part of the Services, you must pay an amount equal to the cash prize to us in advance of the Services being provided.
- 7.3 We will advise you of any Expenses that arise during the Project. We may invoice you for actual or anticipated Expenses at any time.
- 7.4 The Price is subject to VAT at the applicable rate, unless there is an available exemption and you provide us with a VAT exemption certificate or declaration prior to being invoiced for the Services.
- 7.5 The Price must be paid in the manner shown in the Order Form (or in the event the Order Form is silent, by cheque, bank transfer or credit/debit card), without any withholding, deduction, set-off or counterclaim.
- 7.6 Time of payment is of the essence in respect of the obligation to pay the Price (including Expenses). If you fail to pay the Price (including Expenses) when due, we may:
- 7.6.1 discontinue all work on the Services (including, where relevant, the right to refuse to broadcast, or cease broadcasting, any Advertisement); and/or
  - 7.6.2 terminate the Contract with immediate effect; and/or
  - 7.6.3 charge you interest at a rate of 4% per annum above the Barclays Bank base lending rate from time to time on any amount due and unpaid.
- 7.7 If we incur additional direct costs in performing the Services as a direct result of any breach by you of your obligations under these Ts & Cs we shall be entitled to recover such additional costs from you.

## **8. WARRANTIES**

- 8.1 You represent, warrant, undertake and acknowledge that:
- 8.1.1 you are entitled to enter into the Contract and to grant to us the rights that you purport to grant to us under the Contract;
  - 8.1.2 the details you supply for the Order Form and all other information you supply in connection with the Services is, and will be at the relevant time, accurate, complete and true;

8.1.3 you will comply with all applicable laws and regulations relating to data protection, anti-bribery, anti-corruption and anti-money laundering in connection with the Contract.

8.2 We undertake that, without limiting any other provision of these Ts and Cs, and subject as provided in them, we will in providing the Services act in accordance with best practices in the industry, and take proper steps to comply with all applicable laws, including (without limitation) the Bribery Act 2010 and the Modern Slavery Act 2015.

## **9. ANTI-BRIBERY AND ANTI-CORRUPTION**

9.1 We shall:

9.1.1 comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including to the Bribery Act 2010 (**Relevant Requirements**);

9.1.2 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;

9.1.3 notify you (in writing) if we become aware of any breach of clause 9.1.1 or clause 9.1.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage in connection with the performance of the Contract.

9.2 We shall ensure that any person associated with us 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 us in this clause 9 (**Relevant Terms**). We shall be responsible for the observance and performance by such persons of the Relevant Terms.

9.3 For the purpose of this clause 9, the meaning of adequate procedures 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. For the purposes of this clause 9 a person associated with us includes any of our subcontractors.

## **10. CHANGE CONTROL**

10.1 Either party may propose changes to the scope or execution of the Services but no proposed changes shall come into effect until a Change Order has been signed by both parties. A Change Order shall be a document setting out the proposed changes and the effect that those changes will have on:

10.1.1 the Services;

10.1.2 the Price;

10.1.3 the timetable of the Services; and

10.1.4 any other terms of these Ts & Cs.

10.2 If we wish to make a change to the Services we shall provide a draft Change Order to you.

10.3 If you wish to make a change to the Services:

10.3.1 you shall notify us and provide as much detail as we reasonably require of the proposed changes, including the timing of the proposed changes; and



10.3.2 we shall, as soon as reasonably practicable after receiving the information at clause 10.3.1 provide you with a draft Change Order implementing some or all of the changes requested or we will explain why we can't agree to the change(s) requested.

10.4 If the parties:

10.4.1 agree to a Change Order, they shall sign it and that Change Order shall amend the Contract; or

10.4.2 are unable to agree a Change Order, they shall discuss the draft Change Order and negotiate in good faith to agree amendments to the draft Change Order such that it is agreed by both parties.

10.5 Nothing in this clause shall prevent us from agreeing less formally to what we consider to be minor changes to the Services, by agreeing to a requested change in writing without drafting a Change Order.

## **11. LIMITATIONS OF LIABILITY AND INDEMNITY**

11.1 Nothing in these Ts & Cs limits or excludes our liability for (a) death or personal injury resulting from our negligence; (b) our fraud or fraudulent misrepresentation; or (c) any other liability we cannot lawfully limit or exclude.

11.2 Subject to clause 11.1, all warranties, conditions and other terms implied by statute or common law are excluded from the Contract, to the fullest extent permitted by law.

11.3 Subject to clause 11.1, if we commit a breach or default in relation to the Contract, we will not be liable to you for (a) any loss of profits, loss of income, loss of business, loss of opportunity, loss of goodwill, loss of contracts, loss of reputation or loss of, damage to or corruption of data, howsoever arising; or (b) any indirect, special or consequential loss.

11.4 Subject to clause 11.1, each parties total liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract in respect of all breaches of duty shall not exceed the Price for the Project in respect of which the breach or default has occurred or, where the Services do not form part of a Project, the Price payable in the 12 months prior to the breach of duty giving rise to the claim or first such claim if there is more than one.

11.5 You will indemnify and keep indemnified us (together with our directors, employees or authorised agents) against all claims, costs (including legal costs and disbursements), liabilities, losses and expenses, whether or not reasonably foreseeable, incurred as a result of any breach of the Contract by you or as a result of any act or omission of you (including any act or omission of your directors, partners, employees or authorised agents).

## **12. INSURANCE AND CLAIMS AGAINST THIRD PARTIES**

12.1 Where we provide the Services at your premises or any location arranged by you, during the Contract and for a reasonable period after termination you shall maintain in force insurance policies with reputable insurance companies, against all risks that would normally be insured against by a prudent business person in connection with the risks associated with our provision of the Services at such premises or other location and (where relevant) an Event and produce to us on demand full particulars of that insurance and the receipt for the then current premium.

12.2 We shall not be liable in respect of a claim under these Tc & Cs or otherwise in connection with the Services ("Claim") where you are entitled to make a claim under a policy of insurance in respect of any matter or circumstance giving rise to such Claim unless you first make a

claim against your insurers pursuant to the relevant policy. Our liability in respect of any such Claim shall then be reduced by the amount recovered under such policy of insurance (less all reasonable costs, charges and expenses incurred by you in recovering that sum), or extinguished if the amount so recovered exceeds the amount of the Claim.

- 12.3 In the event that you are at any time entitled to recover or otherwise claim reimbursement from a third party in respect of any matter or circumstance giving rise to a Claim the following provisions shall apply:

12.3.1 you shall use all reasonable endeavours to enforce such recovery or seek such reimbursement from the relevant third party before making a Claim against us;

12.3.2 our liability in respect of the related Claim shall be reduced by the amount (if any) actually recovered from the relevant third party (less all reasonable costs, charges and expenses incurred by you in recovering that sum), or extinguished if the amount recovered exceeds the amount of the relevant Claim.

- 12.4 You will be responsible for the insurance of any Client Materials against accidental loss or damage, while they are used in connection with the Services and until the date of their disposal or return to you in accordance with this clause.

### **13. FORCE MAJEURE**

- 13.1 We will have no liability if we are prevented or delayed in carrying out any of our obligations under the Contract by any act or things beyond our control or any other act or event that affects or may affect our ability to provide the Services, including the programming or Campaigns, (including any law or regulatory order, power failure, breakdown or failure of software or machinery, interruption of broadcast, accident, act of God, storm, fire or flood, death of royalty or other public figure, terrorist action or war, failure of sub-contractors, suppliers or labour dispute) ("Force Majeure Event").
- 13.2 If a Force Majeure Event continues for more than one month, we or you may terminate the Contract with immediate effect by written notice.

### **14. TERMINATION**

- 14.1 Where it is possible for you to terminate the Contract on notice, the relevant Schedule shall set out the terms of such termination. Save where specified to the contrary in an applicable Schedule, any Services which are capable of continuing indefinitely shall be terminable by us on reasonable notice.
- 14.2 This clause applies where we have agreed to provide Services at a discount in exchange for you purchasing Services with an aggregate Price at or above an agreed amount. Where you terminate the Contract and the aggregate Price paid or payable up to and including termination is less than the agreed minimum amount, we shall be entitled to recalculate the amount payable under the Contract without applying the discount and invoice you for any resultant increase in the Price and you shall pay such amount in addition to all other amounts payable on termination.
- 14.3 Without limiting any other rights or remedies accrued under the Contract, either party may terminate the Contract by giving the other written notice with immediate effect if the other:
- 14.3.1 is in material breach of any of the terms of the Contract and, if the breach is capable of remedy, fails to remedy the breach within 14 days of receipt of written notice giving full particulars of the breach and of the steps required to remedy it;

- 14.3.2 ceases, or threatens to cease, to carry on business;
  - 14.3.3 becomes or is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors;
  - 14.3.4 has a liquidator, receiver, administrator, administrative receiver, manager, trustee or similar officer appointed over any of its assets; or
  - 14.3.5 passes a resolution for its winding up (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a court makes an order to that effect, or (if the other party is a partnership or unincorporated association) is dissolved or (if the other party is a natural person) dies.
- 14.4 If we terminate the Contract under clause 14.3, the full amount of the Price will become immediately due and payable.
- 14.5 Without limiting our other rights, if you or we exercise a right to terminate the Contract, including under clause 7.6.2, we will be entitled (without further proof of loss) to recover from you:
- 14.5.1 all sums you are liable to pay up to or arising out of termination of the Contract, which are outstanding under the Contract as at the date of termination;
  - 14.5.2 all Expenses incurred or agreed to be incurred.

## **15. DATA PROTECTION**

- 15.1 Unless otherwise agreed between you and us, we will act as a Data Controller for the purposes of the Data Protection Legislation in respect of any personal data we collect in connection with an Advertising Campaign and Market Research, subject to the following exceptions where we will act as a Data Processor:
- 15.1.1 where we agree (as part of the Services) to provide text shortcodes to capture direct responses from data subjects for you; or
  - 15.1.2 where we agree (as part of the Services) to collect other personal data on your behalf; for instance, if we agree to organise a competition for you.
- 15.2 Unless otherwise agreed between you and us, where clause 15.1 does not apply, we will act as a Data Processor for the purposes of the Data Protection Legislation in connection with the Services.
- 15.3 Where we act as a Data Controller in relation to any personal data that you provide to us in connection with the Services:
- 15.3.1 you (a) warrant that you have given all necessary notices and have obtained all necessary consents, or will otherwise ensure that you have a lawful basis under the Data Protection Legislation, to transfer the data to us and any other person to whom it is necessary for the data to be transferred for the purposes of providing the Services ("Permitted Recipients") and to enable us and the Permitted Recipients to process such data ("Client Data") (i) for the purposes of providing the Services in accordance with the Contract and (ii) for the purposes of our legitimate interests in managing our business and improving and promoting our services, including contacting you and individuals connected with you by email or by phone with marketing information about the services we provide and any changes to them (together, "Agreed Purposes"), and (b) undertake to give full information to any data subject whose personal data may be processed under the Contract of the nature of such processing; and

- 15.3.2 we undertake that we will (a) process the data only for the Agreed Purposes and in accordance with the Contract; (b) not disclose or allow access to the Client Data to anyone other than the Permitted Recipients, except as required or permitted by the Data Protection Legislation; (c) ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; (d) not transfer any of the data outside the EEA unless (i) the transfer is to a country approved by the European Commission as providing adequate protection; or (ii) there are appropriate safeguards in place; or (iii) one of the derogations for specific situations applies to the transfer, such that the transfer complies with the relevant provisions of the Data Protection Legislation permitting such transfer; and (e) retain the data for the duration of the Contract and for 6 years after its termination and, subject thereto and at your written direction, delete or return the data and copies thereof to you unless we are required by law to store the personal data for a longer period.
- 15.4 Where we are to act as a Data Processor you will advise us as part of the Order (subject to our approval) as to:
- 15.4.1 the categories of the data subjects in respect of whom we are to act as a Data Processor,
  - 15.4.2 the types of data that is to be collected,
  - 15.4.3 the manner in which any consent required from individuals is to be given,
  - 15.4.4 the scope and nature of the data processing required, and
  - 15.4.5 the duration of the processing and the data storage period.
- 15.5 If we agree to act as a Data Processor in respect of any personal data relating to any individual as part of the Services:
- 15.5.1 we will process the data we have agreed to process as Data Processor only to the extent and in such a manner as is necessary for the provision of the Services and in accordance with any instructions you have given us in writing as part of the Order, unless we are otherwise required to do so by Applicable Laws, in which case we will promptly notify you of this requirement before performing the processing required by the Applicable Laws, unless the Applicable Laws prohibit us from so notifying you;
  - 15.5.2 we will not disclose or provide the data or other information to any other person, except those of our employees who need to have access to process the data or other information and are subject to an appropriate obligation of confidentiality;
  - 15.5.3 we will retain any such data securely and within our own possession and control whilst processing the data and ensure that any use or storage of such personal data complies with the requirements of the Data Protection Legislation;
  - 15.5.4 ensure that we have in place appropriate technical and organisational measures to ensure a level of security for the data which is appropriate to the risk involved in the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the data, and notify you without undue delay on becoming aware of a data breach with respect to any of the data;
  - 15.5.5 we will not appoint a third-party as a sub-processor (or use a sub-processor which we have previously appointed) in respect of the data, except as permitted by the Data Protection Legislation;

- 15.5.6 we will, taking into account the nature of the processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the data subject's rights under the Data Protection Legislation;
- 15.5.7 we will assist you in ensuring compliance with the obligations under the Data Protection Legislation with respect to security, personal breach notifications, impact assessments and consultation with supervisory authorities or regulators, taking into account the nature of processing and the information available to the processor;
- 15.5.8 we will, at your written request, delete or return all the data to you after the end of the provision of the Services relating to the processing, and delete existing copies unless Applicable Laws require storage of the personal data;
- 15.5.9 we will make available to you all information necessary to demonstrate compliance with the obligations laid down in this clause and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you;
- 15.5.10 we will ensure that no such data is transferred outside the European Economic Area, except to a country with equivalent protection to the Data Protection Legislation or under arrangements approved by the Information Commissioner.

## **16. CONFIDENTIAL INFORMATION**

You and we will each keep the terms of the Contract (other than its existence or, in our case, these Ts & Cs) and any information provided by the other as strictly confidential and not disclose those terms or that information except where (a) that information is or, through no fault of yours or ours (as appropriate), becomes publicly available; or (b) you or we (as appropriate) are required by law or a public authority to disclose those terms or that information. If (b) applies, you or we (as appropriate) will promptly notify the other of the requirement in writing and continue to take all reasonable steps required by the other to avoid or minimise the disclosure and to ensure that those terms or that information continues to be treated as confidential.

## **17. MISCELLANEOUS**

- 17.1 A reference in these Ts & Cs to a statute or statutory provision includes that statute or provision as amended, extended, re-enacted or consolidated from time to time, all statutory instruments or orders made pursuant to it, and all legislation replacing it.
- 17.2 The headings in these Ts & Cs are for convenience only and do not affect their interpretation.
- 17.3 These Ts & Cs (together with the Order Form) constitute the entire agreement between you and us, and supersede any previous agreement or understanding. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 17.4 Except for any person for whose benefit an indemnity is given by you under clause 6.3 and 11.5 of the General Terms or under the provisions of the Schedules, a person which is not expressly a party to any Contract will have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any term of the Contract, and the provisions of that Act are expressly excluded from the Contract.
- 17.5 The Contract is personal to you and may not be assigned by you as a whole or in part.
- 17.6 We shall not assign, transfer, mortgage, charge, declare a trust over or deal in any other manner with any of our rights and obligations under the Contract without your prior written consent (not to be unreasonably withheld or delayed), save that nothing in the foregoing shall

prevent us from such carrying out such dealings where: (a) such dealings are between us and an Affiliate of ours, any corporation under common Control with us or any company where a majority of its directors are directors of Communicorp UK; or (b) we are subcontracting our rights and obligations under the Contract.

- 17.7 You shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of your rights and obligations under the Contract without our prior written consent (not to be unreasonably withheld or delayed).
- 17.8 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable (in whole or part), the other provisions of the contract and the remainder of the affected provisions will continue to be valid.
- 17.9 The rights and remedies provided by the Contract are cumulative and not exclusive of any rights or remedies otherwise provided by law.
- 17.10 Any failure by us to exercise or enforce any rights under the Contract will not be deemed to be a waiver of that right, or operate to prevent the exercise or enforcement of it at any time or times thereafter.
- 17.11 The Contract (including any non-contractual obligation related to it) will be governed by and construed in all respects in accordance with the laws of England, and the English courts will have exclusive jurisdiction in all matters relating to any Contract (whether of a contractual or tortious nature or otherwise).
- 17.12 A notice required or permitted to be given by either you or us to the other under these Ts & Cs must be in writing sent by first class post, by hand, by reputable courier or by email to:

**Us:**

For the attention of: the person who signed the Order for us;

Address: Communcorp UK Limited, 7<sup>th</sup> Floor, XYZ Building, 2 Hardman Boulevard, Spinningfields, Manchester. M3 3AQ;

Email: the email address on the Order.

**You:**

For the attention of: the person who signed the Order for you;

Address: your registered office;

Email: the email address on the Order.

or any other address or email address which one party has notified the other pursuant to this provision.

- 17.13 A notice is deemed delivered two Business Days after being sent in accordance with this clause to the correct address, at the time of delivery when delivered by hand or reputable courier, or the next Business Day after sending to the correct email address (provided no delivery failure notification is received by the sender).

## **SCHEDULE A: RADIO ADVERTISING**

### **A1. GENERAL**

- A1.1. This Schedule shall apply where the Services we provide are, or are connected to an Advertisement or any other Products connected to an Advertising Campaign (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- A1.2. An Order Form shall also include the Campaign numbers.
- A1.3. You will promptly inform us if you consider that any Deliverables submitted to you by us for approval are false or misleading or in any way contrary to law or applicable Advertising Regulation.

### **A2. PAYMENT TERMS**

- A2.1. Unless we otherwise agree in writing with you the Price for the Campaign, as shown on the Order Form, will be invoiced in monthly instalments across the anticipated duration of the Campaign and each instalment must be paid in cleared funds at least 10 days prior to the start of the Services being provided. Where we have agreed credit terms with you such invoicing will be in arrears at the end of each calendar month during the Campaign and must be paid within 30 days of the date of the invoice (or such period as is specified on the invoice). In any other case we shall invoice in advance of providing the Services.

### **A3. ADVERTISING AGENTS**

- A3.1. If an Advertising Agent submits the Order Form on your behalf, full details of the Advertising Agent (as well as your details) must be shown on the Order Form.
- A3.2. An Advertising Agent that submits an Order will:
  - a. be deemed to act as the principal party to the Contract (and not as an agent), regardless of any arrangement between the Advertising Agent and you or any third party; and
  - b. be liable to pay any applicable levy administered by the ASA.

### **A4. TERMINATION**

- A4.1. Either party may terminate the Contract by giving the other 28 days' written notice, unless otherwise specified, or your Campaign includes Pre-Emptible Sponsorship, in which case A5.3 applies.
- A4.2. If you give notice under paragraph A4.1 of this Schedule to terminate:
  - a. less than 28 days prior to the start of the Campaign, a cancellation charge of 50% of the Price for the first month of the Campaign will be payable on the date of termination; or
  - b. during the Campaign, all sums outstanding for the Campaign up to termination, and (i) 50% of the Price that would have fallen due for the 28 day period after the date of termination and (ii) 25% of the Price for the second period of 28 days after the date of termination (if applicable) will become due and payable on the date of termination.
- A4.3. You acknowledge that paragraph A4.2 of this Schedule represents reasonable compensation for the loss suffered by us as a result of cancellation and the need to sell time slots at short notice to other advertisers.
- A4.4. If the Contract is terminated under clause 7.6.2 of the General Terms (due to your failure to pay the Price), you acknowledge that we may have difficulty selling pre-booked spots at short notice, and we will be entitled (without further proof of loss) to recover from you:
  - a. all sums outstanding under the Contract as at the date of termination; and

- b. 50% of the Price that would have fallen due under the terms of the Contract during the period of 28 days following the date of termination and (ii) 25% of the Price that would have fallen due under the terms of the Contract for the subsequent period of 28 days (if applicable) will become due and payable on the date of termination.

A4.5. Where we have agreed to provide Services at a discount in exchange for you purchasing Services with an aggregate Price at or above an agreed amount, for the avoidance of doubt, clause 14.2 of the General Terms shall apply.

## **A5. THE CAMPAIGN**

A5.1. Our acceptance of any Order is subject to (a) our approval of the Copy, and (b) satisfaction of the compliance requirements in relation to the Campaign (see paragraph A7 of this Schedule, below).

A5.2. Where the Campaign is to be broadcast on one or more stations owned or operated by us or one of our Affiliates, we will act as the principal party to the Contract (and not as an agent) in relation to the Broadcast on those stations.

A5.3. Where your Campaign includes Pre-Emptible Sponsorship we will notify you in advance, by email or telephone call, if we receive an offer for a higher price for the Sponsorship you have booked. The period of notice to terminate your Sponsorship booking will depend on the length of the booking and/ or in the case of sponsorships on the Smooth branded stations the show which it is sponsoring. In most circumstances you may be able to retain the Sponsorship if you are able to increase the Price for the Sponsorship, providing this increase is contracted within 48 hours of our notification to you to terminate your booking - where this is not possible, we will, subject to availability, offer to accommodate your Sponsorship on an equivalent basis elsewhere on our radio stations.

## **A6. THE COPY**

A6.1. Where we agree, as part of the Services, to produce the Copy or part of any Copy, you must:

- a. provide us in good time with all necessary information and all material necessary for us to be able to produce the Copy requested, in a form that is of high quality and in a readily accessible format;
- b. provide us with that material within a reasonable period of time to permit us to produce the Copy to a high standard, and at least three clear Business Days before the first date upon which the Advertisement is to be broadcast; and
- c. co-operate with and assist us in producing the Copy, including responding promptly to any requests and queries we make.

A6.2. Subject to any specific instructions you may give us (which we will accept if it is reasonably practical to do so), the exact nature, appearance, sound and content of the Copy we produce will be subject to our discretion.

A6.3. Subject to you complying with paragraph A6.1, we will exercise reasonable care and skill in producing the Copy and will use reasonable endeavours to satisfy your requirements in respect of the Copy to be produced.

A6.4. Where you agree to produce the Copy, you must:

- a. supply us with the Copy at least three clear Business Days before the first date upon which the Advertisement is to be broadcast;
- b. where the Copy is in audio, provide the Copy in 16 bit 44k Mastered PCM wav format;
- c. where the Copy is in any other medium, provide the Copy in a suitable high quality and readily accessible format; and



- d. ensure that you provide all Copy, whatever its form, in a finished state so that it can be broadcast or utilised without modification, amendment or alteration.
- A6.5. Any changes to be made to the Advertisement or the Copy for any reason must be agreed between you and us.
- A6.6. Unless we otherwise agree in writing with you we reserve the right at our reasonable discretion (a) not to broadcast the Advertisement or (b) to modify the scheduled times and dates of the whole or any part of the Campaign.
- A6.7. We reserve the right to decline to broadcast the Advertisement or run the Campaign, or to discontinue the Campaign at any time, in which case we will, subject to our rights under this Schedule, refund any part of the Price that has been paid and which relates to the part of the Campaign not broadcast.

## **A7. COMPLIANCE**

- A7.1. We will not broadcast any Advertisement if:
  - a. it is not compliant with any relevant legislation, including the Communications Act 2003;
  - b. it is not compliant with any relevant regulations or codes of practice, including the UK Code of Broadcast Advertising (BCAP) and the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (CAP), as appropriate;
  - c. it would risk offending public decency, taste or morality or would otherwise risk bringing us (including our directors, employees or authorised agents) into disrepute or risk causing damage to our (or their) reputation;
  - d. it has not been approved by Radiocentre, does not satisfy any preconditions of clearance imposed by Radiocentre, or has not been approved by our own internal clearance procedures, as appropriate; or
  - e. it has been subject to a complaint upheld by the ASA which, in our opinion, has not been remedied sufficiently to allow it to be re-broadcast; or
  - f. the Broadcast would be contrary to any relevant legislation, or would otherwise be illegal or involve, facilitate or encourage the committing of a criminal act, or be in breach of the terms of any applicable radio licence.
- A7.2. Radiocentre clearance must be obtained prior to broadcast for Advertisements in certain categories identified in the BCAP code, as well as Advertisements running across multiple stations. If an Advertisement requires Radiocentre clearance:
  - a. you must provide the clearance number prior to broadcast;
  - b. you must notify us of any conditions of clearance imposed by Radiocentre, including scheduling, scripting or production requirements; and
  - c. the clearance must not be more than 6 months old, even for repeat campaigns running the same script.
- A7.3. We are required to clear internally any Advertisements that do not have Radiocentre clearance.
- A7.4. We reserve the right to suspend any Campaign and/or cease broadcasting the Advertisement if we have any reason to believe that the Advertisement, or the product or service featured, is not sufficiently compliant. Any suspension will continue until any compliance issues are resolved to our satisfaction, failing which the Campaign will be cancelled. In such circumstance, you will not be entitled to any refund and will be liable for the Price in full.
- A7.5. You represent, warrant, undertake and acknowledge that:
  - a. in relation to each Campaign, you enter into the Contract with us as a principal, even if you are an Advertising Agent or media buyer;

- b. in relation to any financial promotion (as defined in the Financial Services and Markets Act 2000 (FSMA)), you are, or you have ensured that the Advertisement's contents have been approved by, an authorised person within the meaning of the FSMA, or the Advertisement is otherwise permitted under the FSMA or under any legislation subordinate to it;
- c. you have obtained or will obtain clearance (and will be responsible for all costs, royalties and expenses related to all third party rights) necessary for the exploitation of all Copy for the Campaign;
- d. the details you supply for the Order Form and all other information you supply in connection with the Campaign or within an Advertisement or Copy is, and will be at the relevant time, accurate, complete and true;
- e. where any material you submit for broadcast contains the name or voice or contribution made by a living person, you have obtained the authority of that person to make use of his or her name, voice or contribution;
- f. the Advertisement is legal, decent, honest, accurate, complete and truthful and complies with the BCAP Code, the Radiocentre Copy Guidelines, and all relevant codes under the supervision of the ASA, and complies with all relevant laws, regulations and codes of practice in the UK;
- g. the Advertisement will not violate or infringe any third party intellectual property rights, or any right of privacy, moral rights or constitute a libel or slander.

#### **A8. INTELLECTUAL PROPERTY RIGHTS**

- A8.1. Where you provide the Copy for the Campaign, you will retain all copyright and other intellectual property rights in respect of the Copy, but you grant us an irrevocable, non-exclusive, royalty-free licence to use the Copy during the Campaign and to broadcast the Advertisement.
- A8.2. Where we provide the Copy for the Campaign, we or our licensors will own all copyright and other intellectual property rights in respect of the Campaign and the Copy, subject only to your right to use the Copy for the purposes of the Campaign.
- A8.3. Where we provide Copy that includes rights in musical works, literary works, sound recordings or any other rights in music or speech recordings ("Music") under licence from a third party, you warrant that you will not use the Music or any part of it other than for the Campaign in accordance with these Ts & Cs.
- A8.4. You shall indemnify us (together with our directors, employees or authorised agents) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with any breach of the warranty in paragraph A8.3 of this Schedule, including any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of your use of Music in breach of the warranty in paragraph A8.3 of this Schedule.
- A8.5. Where we use the Copy you provide for the Campaign, but make additions or alterations to it by agreement with you, we will own all copyright and other intellectual property rights in respect of those additions or alterations, to the extent they are severable from the Copy you provide.

## **SCHEDULE B: MARKET RESEARCH**

### **B1. GENERAL**

- B1.1. This Schedule shall apply where the Services we provide are, or are connected to, market research (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.

### **B2. YOUR OBLIGATIONS**

- B2.1. You will promptly inform us if you consider that any Deliverables submitted to you by us for approval are false or misleading (for example information about the product or service in respect of which the market research is undertaken) or in any way contrary to law or applicable regulation.
- B2.2. You will, at your own expense, provide all relevant data or other information, documents or other materials related to the Project and keep us informed of any material change in circumstances. You warrant and we shall be entitled to regard any information provided by you as complete and accurate unless you expressly state when providing it in what respect it is not complete and accurate. You will supply at your own expense all agreed documents or other Client Materials, and all necessary data or other information relating to the Project (and ensure the accuracy of the same), within sufficient time to enable us to carry out the Project in accordance with the Contract.
- B2.3. Unless we are legally or contractually obligated to retain any of the following, we may keep key documents (including, without limitation, electronic copies of the sample details, Deliverables and debrief documentation) for up to three years from the date of the Project debrief presentation or documentation ("**Project Completion Date**") after which they will be destroyed securely. Where used, questionnaires will be retained for up to three years as required by the Market Research Society before being destroyed. All audio/video recordings and any paper, projects and materials relating to the Project will be destroyed securely six months after the Project Completion Date.
- B2.4. All documents and electronic media including questionnaires, card, tapes, disks etc. on which the data is recorded is and shall remain our property.

### **B3. WARRANTIES**

- B3.1. We warrant that we shall use reasonable skill and care in providing the Services and will carry out the Services in accordance with the accepted principles and rules of the market and social research profession.
- B3.2. We do not guarantee that the Services and the Deliverables will be able to be used by you in a specific commercial way.
- B3.3. Where we agree to supply a Deliverable to you in electronic format, both parties shall comply with the agreed security specifications

### **B4. SCOPE AND METHODOLOGY**

- B4.1. The scope and methodology for the market and/or social research we undertake as part of the Services will be agreed by the parties and stated on the Order Form.
- B4.2. You shall not acquire any rights in the Deliverables under paragraph B7 until we have received payment in full for the relevant Services, in accordance with clause 7 of the General Terms, of all sums due to it in respect of all and any invoices issued to you and no part of the Project will be disclosed to you until payment of our initial invoice has been received by us (in cleared funds).

### **B5. PAYMENT TERMS AND COST ASSUMPTIONS**

- B5.1. Subject to paragraph B5.2 of this Schedule, you will pay 50% of the Price and all anticipated Expenses prior to us commencing provision of the Services. You will pay the remainder of the Price on completion of the Project.
- B5.2. If we agree that a Project is to be carried out in stages, we will be entitled to invoice for each stage. Where interim reports are produced, we will invoice on delivery of such report.
- B5.3. The Price is estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the proposal. If the timescale, Project objectives, requirements, research approach, or the assumptions on which the quote is based are changed in any way by you, we will have the right to review the date for completion of the Project and the Price, and charge an additional sum for any additional work that has resulted from those changes. This includes all amendments made to research quotas, and analysis parameters (e.g. profiling of research participants) after the Contract has commenced in accordance with clause 10 of the General Terms.

## **B6. TERMINATION**

- B6.1. Either party may terminate the Contract by giving the other 28 days' written notice.
- B6.2. If you give notice under paragraph B6.1 of this Schedule to terminate:
- a. we shall be entitled to retain 50% of the Price (or if for any reason you have not paid 50% of the Price, you shall pay 50% of the Price immediately after giving notice under paragraph B6.1 of this Schedule);
  - b. if our costs on termination (in our reasonable assessment) exceed 50% of the Price, you shall also pay the amount by which our costs exceed 50% of the Price; and
  - c. you shall pay any unpaid Expenses.

## **B7. INTELLECTUAL PROPERTY RIGHTS**

- B7.1. The copyright and all other Intellectual Property Rights whatsoever (whether vested, contingent or future) in any work produced by us for you in connection with the Project including (without limitation) the Deliverables, debrief documentation and any other information and materials ("**Project Results**") shall belong to us absolutely at all times, but we hereby grant to you (subject to payment in full of the Price) a non-exclusive, non-transferable, irrevocable and royalty free licence in respect of the Intellectual Property Rights in relation to use the Project Results for internal purposes of your business.
- B7.2. The findings from our research and contained within the Project may only be published, used or quoted elsewhere, with our prior written approval and provided that the findings and work are attributed to us. This is in accordance with the MRS Code of Conduct, whereby we must authorise the final proof of such material before it can be used by you. We reserve the right to withhold approval until such time as the requirements of the MRS Code of Conduct have been met in full.

## SCHEDULE C: WEBSITE DEVELOPMENT

### C1. INTERPRETATION AND DEFINITIONS

C1.1. This Schedule shall apply where the Services we provide are, or are connected to, Website Development (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.

C1.2. In this Schedule the following words shall have the following meanings:

**Acceptance Tests:** the tests to be carried out on the Site as set out in the Site Specification and paragraph C5.

**Materials:** the content you provide to us from time to time for incorporation in the Site including all relevant Client Materials.

**Site:** the website in respect of which we have agreed to provide the Services, including web designs, images, pages, code and source files.

**Third Party Products:** those third party software products set out in the Order Form.

**Site Specification:** the specification for the Site set out in the Order Form.

### C2. YOUR RESPONSIBILITIES

C2.1. You acknowledge that our ability to provide the Services is dependent upon your full and timely co-operation (which you agree to provide), as well as the accuracy and completeness of any information and data you (and any design agency) provides to us. Accordingly, you shall provide us with access to, and use of, all information, data and documentation reasonably required by us for the performance by us of our obligations under the Contract.

C2.2. You shall be responsible for the accuracy and completeness of the Materials on the Site in accordance with paragraph C3.

### C3. SITE CONTENT

C3.1. You shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).

C3.2. You shall ensure that the Materials do not contain a virus or hostile programs.

C3.3. You shall indemnify us (together with our directors, employees or authorised agents) against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content or infringe the Intellectual Property Rights of a third party.

C3.4. Unless set out in the Order Form, we make no warranty about the fitness of the Site for a particular purpose. We cannot guarantee the functionality or operations of our or our sub-contractor's website or that it will be uninterrupted or error free, nor does it warrant that the contents are current, accurate or complete.

C3.5. We are not liable to you for any bugs, performance issues or failure of any third party software or Third Party Products.

C3.6. We endeavour to provide a website within given delivery time scales to the best of our ability. However, you agree that we are not liable for any claims, losses, costs incurred or compensation due to any failure to carry out the Services within a given delivery time scale.

C3.7. We are not required to inform you of any necessary or desirable updates, patches or alterations to the Site or provide any other support unless otherwise stated on the Order Form.

### C4. DEVELOPMENT OF SITE

- C4.1. You acknowledge and accept that it is not always possible to render a web page in HTML or other mark-up or programming language such that it exactly reproduces an original design because of the difference between the display in design software and the rendering of web pages by internet browser software. We will use our reasonable endeavours to match the design as closely as is possible when building the Site.
- C4.2. You are permitted a maximum of 4 hours of modification, alteration or amendment to the Site (**alteration**) on Projects where the Price is £3,000, with an additional 1 hour of alteration available for each £1,500 by which the Price exceeds £3,000 (exclusive of VAT in each case), unless otherwise agreed in writing by us. You must request alterations in writing. Any alterations which take longer than the period cited above will be chargeable separately. We will quote for such alteration and may require advanced payment of the cost of such alterations.
- C4.3. Any design or content alterations to pages that have already been completed, new pages or different functionality other than that specified in the Order Form, we be charged separately.
- C4.4. Unless we agree otherwise, optimisation of web pages does not include the creation of new web pages or alteration of the appearance of webpages, but may include meta tags, keywords, description, title, alt tags and text provided by you.
- C4.5. We use reasonable endeavours to create Sites that are accessible to search engines, however, we give no guarantee that a Site will become listed with search engines.
- C4.6. Where the limitations of the code or mark-up language prevent the Site from conforming to the Site Specification, we may amend the Site Specification to the extent necessary work around such limitations.
- C4.7. On request, we can create a copy of the Site on completion of the Project for which there will be a reasonable additional charge, unless quoted otherwise stated in the Order Form or otherwise agreed.
- C4.8. We have the right to use sub-contractors for the whole or part of a Project at our discretion.
- C4.9. We will keep a copy of the Site and design source files during the Project. However, it is your responsibility to make regular backups after completion of the Project.
- C4.10. All communications between us and you shall be by telephone, email, Skype or postal mail, except where we agree otherwise (at our discretion).

## **C5. ACCEPTANCE OF SITE**

- C5.1. Where it forms part of the Site Specification, we shall run the Acceptance Tests. Where the Project is split into phases, the procedure set out in this paragraph C4 shall be repeated at the end of each phase.
- C5.2. The Acceptance Tests shall test compliance of the Site with the Site Specification. The form and detail of such tests will be included on the Order Form.
- C5.3. Where Acceptance Tests form part of the Site Specification, Acceptance of the Site shall occur when the Site has passed the Acceptance Tests. We shall notify you when the tests have been passed and provide the results of the Acceptance Tests to you in writing.
- C5.4. If any failure to pass the Acceptance Tests results from a defect which is caused by any act or omission by you, or by one of your sub-contractors or agents for whom we have no responsibility (**Non-Supplier Defect**), the Site shall be deemed to have passed the Acceptance Tests notwithstanding such Non-Supplier Defect. We shall provide assistance reasonably requested by you in remedying any Non-Supplier Defect by supplying additional services or products. You shall pay us in full for all such additional services and products at our then current fees and prices.
- C5.5. Acceptance of the Site shall be deemed to have taken place upon the occurrence of any of the following events:

- a. you use any part of the Site for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or
- b. you unreasonably delay the start of the relevant Acceptance Tests or any retests for a period of seven Business Days from the date on which we are ready to commence running such Acceptance Tests or retests.

## **C6. THIRD PARTY PRODUCTS**

The Third Party Products shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such Third Party Products is included in the Price.

## **C7. PROJECT MANAGEMENT**

- C7.1. Each party shall appoint a project manager who shall:
  - a. provide professional and prompt liaison with the other party; and
  - b. have the necessary expertise and authority to commit the relevant party.
- C7.2. The project managers shall meet at least once every week until Acceptance and thereafter at least once every month, unless otherwise agreed. You shall provide minutes of these meetings to us.

## **C8. PAYMENT TERMS AND COST ASSUMPTIONS**

- C8.1. Subject to paragraph C8.2 of this Schedule, you will pay 50% of the Price and all anticipated Expenses prior to us commencing provision of the Services. You will pay the remainder of the Price on completion of the Project.
- C8.2. If we agree that a Project is to be carried out in stages, we will be entitled to invoice for each stage.
- C8.3. The Price is estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the proposal. If the timescale, Project objectives, requirements, research approach, or the assumptions on which the quote is based are changed in any way by you, we will have the right to review the date for completion of the Project and the Price, and charge an additional sum for any additional work that has resulted from those changes.

## **C9. TERMINATION**

- C9.1. Either party may terminate the Contract by giving the other 28 days' written notice.
- C9.2. If you give notice under paragraph C9.1 of this Schedule to terminate:
  - a. we shall be entitled to retain 50% of the Price (or if for any reason you have not paid 50% of the Price, you shall pay 50% of the Price immediately after giving notice under paragraph C9.1 of this Schedule);
  - b. if our costs on termination (in our reasonable assessment) exceed 50% of the Price, you shall also pay the amount by which our costs exceed 50% of the Price; and
  - c. you shall pay any unpaid Expenses.

## **SCHEDULE D: DESIGN**

### **D1. GENERAL**

- D1.1. This Schedule shall apply where the Services we provide are, or are connected to, design services (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- D1.2. You will give us full and clear instructions as to your requirements for the Services and Deliverables to be included in an Order Form, including full details of the dates by which each stage of the proposed Services and Deliverables are to commence and finish. You will ensure that all the facts given to us in connection with Services are accurate and shall act in willing co-operation with us. You will promptly inform us if you consider that any Deliverables submitted to you by us for approval are false or misleading or in any way contrary to law or applicable regulation.
- D1.3. In supplying the design service we acknowledge that reasonable modifications may be required as part of such Services. In the event that we consider that any changes to the design are in excess of reasonable modifications then we shall have the right to increase the Price, such increase to be agreed with you before any further work is undertaken.
- D1.4. You shall not acquire any rights in the Deliverables under paragraph D3 until we have received payment in full for the relevant Services, in accordance with clause 7 of the General Terms, of all sums due to it in respect of all and any invoices issued to you and no part of the Project will be disclosed to you until payment of our initial invoice has been received by us (in cleared funds).
- D1.5. You will be responsible for the insurance of any Client Materials against accidental loss or damage, while they are used in the Project and until the date of their disposal or return to you in accordance with this paragraph. We may dispose of any or all Client Materials after six months following completion of the Project, unless you request their return in writing, which shall be at your expense.

### **D2. PAYMENT TERMS AND COST ASSUMPTIONS**

- D2.1. Subject to paragraph D2.2 of this Schedule, you will pay 50% of the Price and all anticipated Expenses prior to us commencing provision of the Services. You will pay the remainder of the Price on completion of the Project.
- D2.2. If we agree that a Project is to be carried out in stages, we will be entitled to invoice for each stage.
- D2.3. The Price is estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the Order Form or any proposal. If the timescale, Project requirements, or the assumptions on which the quote is based are changed in any way by you, we will have the right to review the date for completion of the Project and the Price, and charge an additional sum for any additional work that has resulted from those changes.

### **D3. INTELLECTUAL PROPERTY RIGHTS**

- D3.1. In respect of Deliverables supplied under this Schedule, from the date you have paid the Price in full in cleared funds:
  - a. we irrevocably, unconditionally and absolutely assign to you, all right, title and interest in and to all Assigned Intellectual Property Rights in the Deliverables;
  - b. you shall own all Third-Party Intellectual Property Rights comprised in the Deliverables, where an assignment of such materials is available on commercially reasonable terms which have been approved by you (and where we are a party, us); and



- c. where no assignment of Third-Party Intellectual Property Rights is available on commercially reasonable terms, and in respect of rights we own that are not Assigned Intellectual Property Rights, you shall receive a non-exclusive licence on the terms of clause 6.1.4 of the General Terms to use such materials to the extent necessary for you to lawfully use the Deliverable on the terms of the Contract.

D3.2. To the extent that paragraph D3.1.a is not effective to assign legal title to the Intellectual Property Rights in or to the Assigned Intellectual Property Rights, then we shall assign to you such Intellectual Property Rights as and when requested by you by executing any assignment documents reasonably requested by you. Until such time as those Intellectual Property Rights are assigned to you, we shall hold all such Intellectual Property Rights on trust for you and you shall have an exclusive worldwide, royalty-free licence under those Intellectual Property Rights and to use the Assigned Intellectual Property Rights.

#### **D4. TERMINATION**

D4.1. Either party may terminate the Contract by giving the other 28 days' written notice.

D4.2. If you give notice under paragraph D4.1 of this Schedule to terminate:

- a. we shall be entitled to retain 50% of the Price (or if for any reason you have not paid 50% of the Price, you shall pay 50% of the Price immediately after giving notice under paragraph D4.1 of this Schedule);
- b. if our costs on termination (in our reasonable assessment) exceed 50% of the Price, you shall also pay the amount by which our costs exceed 50% of the Price; and
- c. you shall pay any unpaid Expenses.

## **SCHEDULE E: EXPERIENTIAL**

### **E1. GENERAL**

- E1.1. This Schedule shall apply where the Services we provide are, or are connected to, an Event (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.

### **E2. YOUR OBLIGATIONS**

- E2.1. You will give us full and clear instructions as to your requirements for the Services and Deliverables to be included in an Order Form, including full details of the dates by which each stage of the proposed Services and Deliverables are to commence and finish. You will ensure that all the facts given to us in connection with Services and Deliverables are accurate and shall act in willing co-operation with us. You will promptly inform us if you consider that any Deliverables submitted to you by us for approval are false or misleading or in any way contrary to law or applicable regulation.
- E2.2. Unless we agree otherwise when accepting the Order, the Order Form shall include details of:
- a. the date(s) of the Event;
  - b. the venue;
  - c. the duration;
  - d. the look and concept;
  - e. the minimum and the expected number of attendees;
  - f. any special needs, requirements or disabilities of the attendees;
  - g. the approximate number of staff required to manage the Event; and
  - h. any equipment required.
- E2.3. You shall insure all Client Materials (where provided) against accidental loss or damage, while they are used in the Project and until the date of their disposal or return to you in accordance with this paragraph. We may dispose of any or all Client Materials after six months following completion of the Project, unless you request their return in writing, which shall be at your expense.

### **E3. PAYMENT TERMS**

- E3.1. The Price for the Services shall be payable not less than 10 days before the Services are due to commence.
- E3.2. We will charge you in advance for all Expenses. Any estimated figures for Expenses given to you will be varied to reflect the actual cost of such items. We will use reasonable endeavours to notify you if any Expenses which look likely to exceed or have exceeded the original estimated amount by more than 10%.
- E3.3. Title in the Deliverables will not pass you until we have received payment in full for the relevant Services, in accordance with clause 7 of the General Terms, of all sums due to it in respect of all and any invoices issued to you and no part of the Project will be disclosed to you until payment of our initial invoice has been received by us (in cleared funds).

### **E4. TERMINATION OR AMENDMENTS TO THE EVENT**

- E4.1. Either party may terminate the Contract by giving the other 28 days' written notice.
- E4.2. If you terminate the Contract under paragraph E4.1 of this Schedule 28 days or more before the Event, you will be liable to pay the following:

- a. all Expenses which have been incurred or are bound to be incurred by us or any of our sub-contractors;
  - b. any other third-party costs for which we or our sub-contractors are liable;
  - c. charges in respect of the work we have carried out up to the date of termination.
- E4.3. If you terminate the Contract under paragraph E4.1 of this Schedule less than 28 days before the Event, you will be liable to pay the full Price.
- E4.4. You may only make any change to the Event after the Contract has been formed with our written consent as set out in clause 10 of the General Terms.
- E4.5. If we make any change to the Event or any element of it due to an event beyond our control we will not be liable to you.
- E4.6. Without prejudice to any rights under the Contract, where we agree with you that a risk assessment should be carried out in respect of the Event or any part of the Event, such risk assessment shall be reviewed jointly and either party shall be entitled to remove any activities from the programme if these are considered by such party to be too high risk.

## **E5. ATTENDEES/DAMAGE CAUSED BY ATTENDEES**

- E5.1. We reserve the right to refuse admission to any person for any reason whatsoever.
- E5.2. If any of your attendees your agents or representatives or others instructed by you cause any damage to the venue or are responsible for any other loss in connection with the Event, you will indemnify us (together with our directors, employees or authorised agents) against any loss or damage (including any related fees or expenses) and any third party claims.
- E5.3. If we have agreed to be responsible for organising and securing venues at which the Event will be hosted, then, provided that we have notified you of all material terms entered into with such venue owners, you shall be liable for any breach of such venue hire terms and conditions by you, any of your attendees, your agents or representatives or others instructed by you.
- E5.4. You shall be liable for and hereby indemnify us (together with our directors, employees or authorised agents) against any and all Losses suffered as a result of any use of your products or services at any event, provided that, where applicable, we have complied with any of your directions as to how such products or services are to be offered to the public.
- E5.5. Where your products include food and/or drink, you shall ensure that it is prepared, stored and served in accordance with all applicable laws and regulations and that appropriate allergy information is given to the public at any event involving sampling of your products.

## **SCHEDULE F – DIGITAL SERVICES**

- F1.1. This Schedule shall apply where the Services we provide are, or are connected to, Digital Content Production, other digital services or Hosting (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- F1.2. We will usually be able to provide for re-editing digital content, but there may be an additional cost where the re-editing is extensive, which will increase the Price. We will advise you of any increase in the Price that arises during the Project.
- F1.3. You must provide us with not less than 3 Business Days' notice if you are unable to attend any appointment for recording a podcast or shooting a video or unable to supply any Client Materials needed for recording a podcast or shooting a video, or such longer period as we have made known to you that we require.
- F1.4. Where we undertake Digital Content Production that includes rights in musical works, literary works, sound recordings or any other rights in music or speech recordings ("Music") under licence from a third party, you warrant that you will not use the Music or any part of it other than in accordance the Contract.
- F1.5. You shall indemnify us (together with our directors, employees or authorised agents) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with any breach of the warranty in paragraph F1.4 of this Schedule, including any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of your use of Music in breach of the warranty in paragraph F1.4 of this Schedule.

### **F2. BRANDED PODCASTS**

- F2.1. This paragraph F2 applies where we provide and produce podcasts for you, including recording and engagement of individuals for content.
- F2.2. Each edited final recording created as part of the Services shall, unless you request otherwise, be stored on our servers. There is no charge for such storage and hosting during in the first 12 months from creation, but we will thereafter apply an annual charge specified in the Order Form or as otherwise agreed and paragraph F4 shall apply to these Services.
- F2.3. On completion of the activity we will publish the podcasts across a range of platforms to be agreed with you, as further set out in the Specification.
- F2.4. You may postpone the commencement of the Services once by up to 30 days by providing not less than 10 Business Days' notice and we will endeavour to reschedule the Services. If the Services have not been commenced within 3 months of the date of the signed Order, we shall have no obligation to carry out the Services and shall be entitled to keep 50% of the Price. Furthermore, unless otherwise agreed with us, if the Services are not completed within 12 months of the commencement of the Services we shall have no obligation to continue to carry out the Services and shall be entitled to the remainder of the Price.

### **F3. VIDEO**

- F3.1. This paragraph F3 applies where we film and edit digital videos.
- F3.2. Unless agreed otherwise, we will not host such videos, but we will make them available for you to upload to any third party hosting websites agreed on the Order Form. If we do provide Hosting, we will apply an annual charge specified in the Order Form or as otherwise agreed and paragraph F4 and shall apply to these Services

F3.3. You shall:

- a. provide us, our employees, agents, consultants and subcontractors, with access to your premises, office accommodation and other facilities as reasonably required by us to provide the Services and ensure that they are safe for such a visit;
- b. provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- c. where necessary, prepare your premises for the supply of the Services;
- d. where necessary, ensure the subject matter of the video is ready for filming when we arrive to begin filming;
- e. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- f. comply with all applicable laws, including health and safety laws.

**F4. HOSTING**

- F4.1. Unless provided otherwise in a relevant Schedule or the Order Form, Hosting charges for digital content stored on our servers will be made annually in advance.
- F4.2. You shall ensure that the Client Materials or any other material that you ask us to host (other than to the extent we supplied such material) do not infringe any applicable laws, regulations or third party rights (such as material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).
- F4.3. You shall indemnify us against all damages, losses and expenses arising as a result of any action or claim that the Client Materials or any other material that you ask us to host (other than to the extent we supplied such material) constitutes Inappropriate Content.
- F4.4. We shall perform the Hosting with reasonable care and skill, but we do not warrant that:
- a. your use of the Services will be uninterrupted or error-free; or
  - b. the Services will be free from weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to confidentiality, integrity, or availability; or
  - c. the Services will comply with any laws, regulations, codes, guidance from regulatory and advisory bodies (whether mandatory or not), international and national standards, and sanctions, which are applicable to you relating to security of network and information systems and security breach and incident reporting requirements, which may include the Cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

**F5. PAYMENT TERMS**

- F5.1. Subject to paragraph F5.4 of this Schedule, for Services other than Hosting, you will pay 50% of the Price and all anticipated Expenses prior to us commencing provision of the Services. You will pay the remainder of the Price on completion of the Project, subject to clause F2.4.
- F5.2. Hosting charges for podcasts stored on our servers will be made annually in advance. In the first 12 months following the date of the first podcast episode being uploaded no charge will be made for hosting, unless the aggregate bandwidth for podcast downloads in any given month exceeds 1TB (Approximately 50,000 downloads based on a 128kbps 22 minute episode). If bandwidth usage exceeds 1TB in any given month we may apply an overage

charge to your next payable invoice. Overages are charged at £0.25 per gigabyte of data usage.

- F5.3. If we do provide Hosting for digital videos, it shall be charged at the rates specified in the Order Form or as we notify you from time to time.
- F5.4. The Price is estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the Order Form or any proposal. If the timescale, Project requirements, or the assumptions on which the quote is based are changed in any way by you, we will have the right to review the date for completion of the Project and the Price, and charge an additional sum for any additional work that has resulted from those changes. If we agree that a Project is to be carried out in stages, we will be entitled to invoice for each stage. Where interim reports are produced, we will invoice on delivery of such report.

## **F6. TERMINATION**

- F6.1. Either party may terminate the Contract by giving the other 28 days' written notice, provided that in the case of Hosting, such notice shall take effect at the end of the period for which you have paid the Price.
- F6.2. Other than in respect of Hosting, if you give notice under paragraph F6.1 of this Schedule to terminate:
- a. we shall be entitled to retain 50% of the Price (or if for any reason you have not paid 50% of the Price, you shall pay 50% of the Price immediately after giving notice under paragraph F6.1 of this Schedule);
  - b. if our costs on termination (in our reasonable assessment) exceed 50% of the Price, you shall also pay the amount by which our costs exceed 50% of the Price; and
  - c. you shall pay any unpaid Expenses.

## **F7. INTELLECTUAL PROPERTY RIGHTS**

- F7.1. In respect of Deliverables supplied under this Schedule, from the date you have paid the Price in full in cleared funds:
- a. we irrevocably, unconditionally and absolutely assign to you, all right, title and interest in and to all Assigned Intellectual Property Rights in the Deliverables;
  - b. you shall own all Third-Party Intellectual Property Rights comprised in the Deliverables, where an assignment of such materials is available on commercially reasonable terms which have been approved by you (and where we are a party, us); and
  - c. where no assignment of Third-Party Intellectual Property Rights is available on commercially reasonable terms, and in respect of rights we own that are not Assigned Intellectual Property Rights, you shall receive a non-exclusive licence on the terms of clause 6.1.4 of the General Terms to use such materials to the extent necessary for you to lawfully use the Deliverable on the terms of the Contract.
- F7.2. To the extent that paragraph F7.1 is not effective to assign legal title to the Intellectual Property Rights in or to the Assigned Intellectual Property Rights, then we shall assign to you such Intellectual Property Rights as and when requested by you by executing any assignment documents reasonably requested by you. Until such time as those Intellectual Property Rights are assigned to you, we shall hold all such Intellectual Property Rights on trust for you and you shall have an exclusive worldwide, royalty-free licence under those Intellectual Property Rights and to use the Assigned Intellectual Property Rights.

## **SCHEDULE G: THE DEVELOPMENT AND BUILDING OF VOICE SKILLS ON A VOICE-ACTIVATED PLATFORM**

### **G1. GENERAL**

- G1.1. This Schedule shall apply where the Services we provide are, or are connected to, the development and building of voice skills for use on a voice-activated platform such as Amazon's Alexa (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- G1.2. The Skill we develop will either be sold to you outright or licenced to you for the term of the Contract, as specified in the Order Form.
- G1.3. The following terms shall have the following meanings when used in this Schedule:

**Certification:** Acceptance by the Platform of the Skill.

**Development:** The implementation of the specification including, all conversational AI modelling & deployment, backend services to support the conversational AI and integration components to provide access to external data sources and services.

**Testing:** End to end to include unit testing, integration testing and user acceptance testing.

**Hosting:** hosting the Skill on our servers.

**Maintenance and Support:** Ongoing support of the Skill in accordance with the Specification.

**Minimum Term:** 12 months.

**Planning & Ontology Design:** The functional review and requirements definition of the business requirements, the translation of said requirements into a conversational AI specification compatible with the target Platform (e.g. Amazon Alexa).

**Platform:** Voice activated third-party software available to consumers, e.g. Amazon Alexa.

**Preparation & Processing:** Management of the target Platform certification process, through all stages leading to the public release of the skill.

**Skill:** the voice skill for use on a Platform developed under the Contract and any relevant documentation.

**Skill Content Production:** the production of content for use with the Skill and Content shall be construed accordingly.

### **G2. SERVICES**

- G2.1. We shall develop the Skill in accordance with the requirements of the Specification in all material respects, which shall comprise the following stages: Planning & Ontology Design; Development & Testing; Preparation & Processing and Certification.
- G2.2. If requested to do so by you and agreed to by us, we shall also carry out:
- a. Hosting;
  - b. Skill Content Production.

### **G3. DELIVERY AND DELAYS**

- G3.1. We shall use our reasonable endeavours to complete the development of the Skill and any other Deliverables by any applicable completion date, but time shall not be of the essence.

### **G4. ACCEPTANCE TESTS**

- G4.1. Before the Skill is submitted to the Platform for testing, we shall carry out reasonable tests to ensure that the Skill (or the part of it under test) is in operable condition and is capable of meeting the requirements of the Specification once properly installed.

- G4.2. You shall be permitted to participate in testing the Skill (or the part of it under test) when we consider it ready for submission to the Platform for testing, during any agreed milestones in the Specification or at any point prior to that which we agree in the Specification.
- G4.3. We shall submit the Skill to the Platform when agreed with you. If you refuse to allow us to submit the skill when we (acting reasonably) consider it to be completed and ready for submission, we reserve the right to submit any invoice that would otherwise be submitted on passing testing by the Platform and to treat the Project as having been completed.
- G4.4. Save where the Skill is materially different to the Specification, acceptance of the Skill by you (which shall be completion of the Project) shall occur or be deemed to have occurred on the earlier of: (a) when it is accepted by the Platform; (b) when it is used by you for any purpose other than your obligations under the Contract; or (c) when it is expressly accepted by you.

## **G5. HOSTING**

- G5.1. Paragraph F4, F5 and F6 of Schedule F, in so far as they apply to the Hosting of Skills, shall apply to these Services.

## **G6. SKILL CONTENT PRODUCTION**

- G6.1. Where we undertake Skill Content Production, the provisions of paragraph F1.4 and F1.5 of Schedule F shall apply to Skill Content Production as if it were Digital Content Production.

## **G7. USE AND ADAPTATION OF THE SKILL**

- G7.1. You may not make adaptations or variations of the Skill without our prior written consent.
- G7.2. You may not disassemble, decompile, reverse translate or in any other manner decode the Skill, except as permitted by law.

## **G8. PAYMENT TERMS**

- G8.1. Where you agreed to purchase the Skill outright, subject to paragraph G8.3 of this Schedule, you will pay 50% of the Price and all anticipated Expenses prior to us commencing provision of the Services. You will pay the remainder of the Price on completion of the Project.
- G8.2. Where you have agreed to use the Skill under licence, you agree to pay the Price for the term of the Contract, which shall be no shorter than the Minimum Term. We shall invoice you for the Price at the intervals specified in the Order or if no intervals are so specified we shall invoice you monthly, in accordance with clause 7 of the General Terms.
- G8.3. The Price is estimated according to specific Project requirements, the agreed timescale, and any assumptions detailed in the Order Form or any proposal. If the timescale, Project requirements, or the assumptions on which the quote is based are changed in any way by you, we will have the right to review the date for completion of the Project and the Price, and charge an additional sum for any additional work that has resulted from those changes.

## **G9. TERMINATION**

- G9.1. Where you have agreed to purchase the Skill outright, either party may terminate the Contract by giving the other 28 days' written notice.
- G9.2. If you give notice under paragraph G9.1 of this Schedule to terminate:
- a. we shall be entitled to retain 50% of the Price (or if for any reason you have not paid 50% of the Price, you shall pay 50% of the Price immediately after giving notice under paragraph G9.1 of this Schedule);
  - b. if our costs on termination (in our reasonable assessment) exceed 50% of the Price, you shall also pay the amount by which our costs exceed 50% of the Price; and
  - c. you shall pay any unpaid Expenses.



G9.3. Where you have agreed to use the Skill under licence, either party may terminate the Contract by giving the other not less than three months' written notice not to expire before the end of the Minimum Term.

## **SCHEDULE H: GOMO PRODUCTS**

### **H1. GENERAL**

- H1.1. This Schedule shall apply where the Services we provide are, or are connected to, supplying Gomo Products (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- H1.2. You agree to all relevant obligations set out in Schedule A, including A7.1.a to A7.1.c, A7.1.e and A7.1.f, where Advertising shall refer to the Copy provided for use with the Gomo Products and Broadcast shall refer to the Copy appearing on the Gomo Product.
- H1.3. Copy for use with the Gomo Products must be in the format specified in the Order Form or as otherwise notified to you and the Copy received at least 3 Business Days before the scheduled date for the activity commencing.

### **H2. ROAD AND WEATHER CONDITIONS**

- H2.1. In the event road or weather conditions make it dangerous, in our opinion, for the iVan to be driven, it will not be driven and we shall have the right to retain the Price paid to us, but shall provide you with a credit in the amount of the Price paid which may be applied against a future activity under this Schedule.
- H2.2. If the weather conditions make it dangerous, in our opinion, for the iWalker to be used, it will not be used and we will reasonably consider a reduction to the Price in the form of a credit on future activity to take account of any material inability to use the iWalker due to weather conditions. Such weather conditions include high winds, rain, snow and icy conditions. Such reduction shall be made entirely at our discretion, but we will take into account several factors including how much use was made of the iWalker and our costs.
- H2.3. If the weather conditions make it unsuitable, in our opinion, for the iProjector to be used, it will not be used and we will reasonably consider a reduction to the Price in the form of a credit on future activity to take account of any material inability to use the iProjector due to weather conditions. Such reduction shall be made entirely at our discretion, but we will take into account several factors including how much use was made of the iProjector and our costs.

### **H3. RIGHTS, PERMISSIONS AND CONSENTS**

- H3.1. Unless we have agreed in the Order Form to obtain any necessary rights, permissions and consents to use the Gomo Product in any given location, you shall ensure that you have all necessary rights, permissions and consents to use the Gomo Product in every location you have requested we use it in and shall indemnify us in respect of all losses, damages, costs and expenses that we suffer from your failure to obtain such rights, permissions and consents.
- H3.2. We shall not be obligated to perform any Services using a Gomo Product if we know or, or you cannot show to our reasonable satisfaction, that you have complied with clause H3.1.

### **H4. TERMINATION**

- H4.1. Either party may terminate the supply of GOMO products by giving the other 28 days' written notice.
- H4.2. If you give notice in accordance with paragraph H4.1 of this Schedule to terminate we shall be entitled to recover any unpaid Expenses.
- H4.3. If you give notice of less than 28 days written notice, we shall be entitled to 25% of the Price.

## **SCHEDULE J: PODCAST ADVERTISING**

### **J1. GENERAL**

- J1.1. This Schedule applies to Advertising on the Sports Social Podcast Network (“SSPN”) and any other podcasts or podcast networks which we operate, whether such Advertising inventory is owned by us or sold by us on behalf of a third party partner;
- J1.2. This Schedule shall apply where the Services we provide are, or are connected to an Advertisement or any other Products connected to an Advertising Campaign (and for the avoidance of doubt applies in addition to our General Terms, as set out in clause 2.3 of the General Terms). Save where expressly specified, it shall not apply to any other Services.
- J1.3. An Order Form shall include the Campaign numbers.
- J1.4. You will promptly inform us if you consider that any Deliverables submitted to you by us for approval are false or misleading or in any way contrary to law or applicable Advertising Regulation.

### **J2. PAYMENT TERMS**

- J2.1. Unless we otherwise agree in writing with you the Price for the Campaign, as shown on the Order Form, will be invoiced in monthly instalments across the anticipated duration of the Campaign and each instalment must be paid in cleared funds at least 10 days prior to the start of the Services being provided. Where we have agreed credit terms with you such invoicing will be in arrears at the end of each calendar month during the Campaign and must be paid within 30 days of the date of the invoice (or such period as is specified on the invoice). In any other case we shall invoice in advance of providing the Services.

### **J3. ADVERTISING AGENTS**

- J3.1. If an Advertising Agent submits the Order Form on your behalf, full details of the Advertising Agent (as well as your details) must be shown on the Order Form.
- J3.2. An Advertising Agent that submits an Order will:
  - a. be deemed to act as the principal party to the Contract (and not as an agent), regardless of any arrangement between the Advertising Agent and you or any third party; and
  - b. be liable to pay any applicable levy administered by the ASA.

### **J4. TERMINATION**

- J4.1. Either party may terminate the Contract by giving the other 28 days’ written notice.
- J4.2. If you give notice under paragraph J4.1 of this Schedule to terminate:
  - a. less than 28 days prior to the start of the Campaign, a cancellation charge of 25% of the Price of the Campaign will be payable on the date of termination; or
  - b. during the Campaign, all sums outstanding for the Campaign up to termination, and (i) the lower of a) 25% of the Price of the Campaign or b) the remaining balance of the Price of the Campaign.
- J4.3. You acknowledge that paragraph J4.2 of this Schedule represents reasonable compensation for the loss suffered by us as a result of cancellation and the need to sell inventory at short notice to other advertisers.
- J4.4. If the Contract is terminated under clause 7.6.2 of the General Terms (due to your failure to pay the Price), you acknowledge that we may have difficulty selling pre-booked inventory at short notice, and we will be entitled (without further proof of loss) to recover from you:
  - a. all sums outstanding under the Contract as at the date of termination; and

- J4.5. the lower of a) 25% of the Price of the Campaign or b) the remaining balance of the Price of the Campaign. Where we have agreed to provide Services at a discount in exchange for you purchasing Services with an aggregate Price at or above an agreed amount, for the avoidance of doubt, clause 14.2 of the General Terms shall apply.

## **J5. THE CAMPAIGN**

- J5.1. Our acceptance of any Order is subject to (a) our approval of the Copy, and (b) satisfaction of the compliance requirements in relation to the Campaign (see paragraph J7 of this Schedule, below).

## **J6. THE COPY**

- J6.1. Where we agree, as part of the Services, to produce the Copy or part of any Copy, you must:
- a. provide us in good time with all necessary information and all material necessary for us to be able to produce the Copy requested, in a form that is of high quality and in a readily accessible format;
  - b. provide us with that material within a reasonable period of time to permit us to produce the Copy to a high standard, and at least ten clear Business Days for Host-Read Adverts and three Business Days for all other adverts, before the commencement date of the Campaign, or as specified in the Order;
  - c. co-operate with and assist us in producing the Copy, including responding promptly to any requests and queries we make.
- J6.2. Subject to any specific instructions you may give us (which we will accept if it is reasonably practical to do so), the exact nature, appearance, sound and content of the Copy we produce will be subject to our discretion.
- J6.3. Subject to you complying with paragraph J6.1, we will exercise reasonable care and skill in producing the Copy and will use reasonable endeavours to satisfy your requirements in respect of the Copy to be produced.
- J6.4. Where you agree to produce the Copy, you must:
- a. supply us with the Copy at least three clear Business Days before the commencement date of the Campaign, as specified in the Order;
  - b. supply the audio Copy in MP3 Stereo with a sample rate of 44.1khz or higher - the recommended audio specification for the copy is 16 LUFS Loudness Average/ 1db True Peak / Range of 6-9 db;
  - c. where the Copy is in any other medium, provide the Copy in a suitable high quality and readily accessible format; and
  - d. ensure that you provide all Copy, whatever its form, in a finished state so that it can be utilised without modification, amendment or alteration.
- J6.5. Any changes to be made to the Advertisement or the Copy for any reason must be agreed between you and us.
- J6.6. Unless we otherwise agree in writing with you we reserve the right at our reasonable discretion not to Insert the Advertisement.
- J6.7. We reserve the right to decline to Insert the Advertisement or run the Campaign, or to discontinue the Campaign at any time, in which case we will, subject to our rights under this Schedule, refund any part of the Price that has been paid and which relates to the part of the Campaign not Delivered.

## **J7. COMPLIANCE**

- J7.1. We will not Insert any Advertisement if:

- a. it is not compliant with any relevant legislation, including the Communications Act 2003;
- b. it is not compliant with any relevant regulations or codes of practice, including the UK Code of Non-Broadcast Advertising, Sales Promotion and Direct Marketing (CAP), as appropriate;
- c. it would risk offending public decency, taste or morality or would otherwise risk bringing us (including our directors, employees or authorised agents) into disrepute or risk causing damage to our (or their) reputation; or
- d. it has been subject to a complaint upheld by the ASA which, in our opinion, has not been remedied sufficiently to allow it to be re-Inserted; or
- e. the Insertion of the Advertisement would be contrary to any relevant legislation, or would otherwise be illegal or involve, facilitate or encourage the committing of a criminal act,.

J7.2. We reserve the right to suspend any Campaign and/or cease playing the Advertisement if we have any reason to believe that the Advertisement, or the product or service featured, is not sufficiently compliant. Any suspension will continue until any compliance issues are resolved to our satisfaction, failing which the Campaign will be cancelled. In such circumstance, you will not be entitled to any refund and will be liable for the Price in full.

J7.3. You represent, warrant, undertake and acknowledge that:

- a. in relation to each Campaign, you enter into the Contract with us as a principal, even if you are an Advertising Agent or media buyer;
- b. in relation to any financial promotion (as defined in the Financial Services and Markets Act 2000 (FSMA)), you are, or you have ensured that the Advertisement's contents have been approved by, an authorised person within the meaning of the FSMA, or the Advertisement is otherwise permitted under the FSMA or under any legislation subordinate to it;
- c. you have obtained or will obtain clearance (and will be responsible for all costs, royalties and expenses related to all third party rights) necessary for the exploitation of all Copy for the Campaign;
- d. the details you supply for the Order Form and all other information you supply in connection with the Campaign or within an Advertisement or Copy is, and will be at the relevant time, accurate, complete and true;
- e. where any material you submit contains the name or voice or contribution made by a living person, you have obtained the authority of that person to make use of his or her name, voice or contribution;
- f. the Advertisement is legal, decent, honest, accurate, complete and truthful and complies with the CAP Code and all relevant codes under the supervision of the ASA, and complies with all relevant laws, regulations and codes of practice in the UK;
- g. the Advertisement will not violate or infringe any third party intellectual property rights, or any right of privacy, moral rights or constitute a libel or slander.

## **J8. ADVERTISING IMPRESSIONS**

J8.1. If there is a technical or other problem due to us, resulting in a delay in the placement of ads, we will endeavour to deliver the agreed number of Impressions within the scheduled period of the Campaign, where possible, or shall extend the period of the Campaign by agreement with you.

- J8.2. We will rely on our tracking to determine how many Impressions have been delivered and no Advertiser or Advertising Agency tracking or tags will be taken into account by us when determining the number of Impressions delivered.
- J8.3. In placing a Campaign you recognise that the delivery of impressions is dependent on the number of associated podcast downloads whether by podcast title, geographic area or other criteria, as specified. Where the Campaign is time sensitive with a specified end date, we will use reasonable endeavours to deliver the agreed number of impressions in the time specified, if the number of impressions delivered however are less than 95% of the total number of impressions agreed then you may request a refund for the undelivered portion of the overall impressions, this would be calculated pro-rata to the Price.

## **J9. INTELLECTUAL PROPERTY RIGHTS**

- J9.1. Where you provide the Copy for the Campaign, you will retain all copyright and other intellectual property rights in respect of the Copy, but you grant us an irrevocable, non-exclusive, royalty-free licence to use the Copy during the Campaign and to Insert the Advertisement.
- J9.2. Where we provide the Copy for the Campaign, we or our licensors will own all copyright and other intellectual property rights in respect of the Campaign and the Copy, subject only to your right to use the Copy for the purposes of the Campaign.
- J9.3. Where we provide Copy that includes rights in musical works, literary works, sound recordings or any other rights in music or speech recordings ("Music") under licence from a third party, you warrant that you will not use the Music or any part of it other than for the Campaign in accordance with these Ts & Cs.
- J9.4. You shall indemnify us (together with our directors, employees or authorised agents) against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by us arising out of or in connection with any breach of the warranty in paragraph J9.3 of this Schedule, including any claim made against us for actual or alleged infringement of a third party's intellectual property rights arising out of your use of Music in breach of the warranty in paragraph J9.3 of this Schedule.
- J9.5. Where we use the Copy you provide for the Campaign, but make additions or alterations to it by agreement with you, we will own all copyright and other intellectual property rights in respect of those additions or alterations, to the extent they are severable from the Copy you provide.