

## WIDA GROUP LIMITED TERMS AND CONDITIONS

### **SECTION A: PROVISIONS APPLYING TO ALL SERVICES WE SUPPLY**

#### **1. INTERPRETATION**

1.1 In these conditions the following words and expressions shall (unless the context shall otherwise require) bear the following meanings:

"Acceptable Use Policy": the acceptable use policy for acceptable Internet usage published by us from time to time, the current version of which is available on our website at url [www.widagroup.com](http://www.widagroup.com) or such other website as we may notify to you from time to time;

"Agreement": the agreement between us and you governing our provision of the Services to you, comprising the Proposal, these conditions and all specifications, plans, drawings and other documentation referred to in the same or subsequently agreed by us both;

"Charges": our fees for providing the Services as detailed in the Proposal;

"CMS": our hosted content management system known as Web Wizard, and any other content management system that we decide to use in relation to your Website;

"Content": text, graphics, logos, photographs, images, moving images, sound, illustrations and other material: (a) in the context of our Website Development Service, to be featured, displayed or used in the Website; or (b) in the context of our Hosting Service, featured, displayed or used, in the Hosted Website;

"Hosted Website": the website subject of the hosting services under Section C;

"IPR": any and all patents, trade marks, rights in domain names, rights in designs, copyright and database rights (whether registered or not and any applications to register or to apply for registration of any of the foregoing) rights in confidential information and all other intellectual property rights which may subsist now or in the future in any part of the world;

"Proposal": our proposal to you outlining the services we will provide to you, and our charges for doing so;

"Server": the computer upon which the Hosted Website will reside and operate;

"Service Level Commitments": the commitments in respect of website availability as set out in our Proposal;

"Services": the services or part thereof to be provided by us to you under the Agreement, as detailed in the Proposal;

"Specification": the outline specification for the Website set out in the Proposal, as such is replaced by any subsequent more detailed specification or other document agreed by the parties (as such may be amended from time to time) setting out the design, features and functionality of the Website;

"Website": the website to be designed and developed by us in accordance with the Specification;

"us" or "we": Wida Group Limited (registered number: 03788142) whose registered office is at Unit E, Brookside Road, Ruddington, Nottingham, NG11 6AT (and "our" shall be construed accordingly); and

"you": the person, firm, company or other entity entering into the Agreement with us (and "your" shall be construed accordingly).

1.2 These conditions are the only conditions upon which we are prepared to deal with you, and they shall govern the Agreement to the entire exclusion of any other express terms and conditions.

1.3 The headings in these conditions are inserted only for convenience and shall not affect its construction.

1.4 In the event of a conflict between any document referred to in these conditions, the following order of precedence shall prevail (unless otherwise expressly stated): (a) the Proposal; and (b) these conditions – except that in the event of conflict between the outline specification set out in the Proposal and any subsequent more detailed specification agreed by us both, the subsequent more detailed specification shall prevail.

#### **2. BASIS OF THE AGREEMENT**

2.1 In consideration of the payment of the Charges, we shall provide the Services subject to the terms and conditions set out in these conditions.

### **SECTION B: PROVISIONS APPLYING TO OUR WEBSITE DEVELOPMENT SERVICE**

#### **3. BASIS OF THIS SECTION**

3.1 This Section B shall apply where you have asked us to design and develop your new website whether it is to be a Static, or a Web Wizard Website ("the Website Development Service"). Please note that you will be required to purchase our hosting service if your new website is a Web Wizard website. This is because they will be created using our CMS, which also provides all the websites functionality. Our CMS is hosted on our servers and cannot be hosted on your servers.

#### **4. PRINCIPAL DUTIES**

4.1 We shall:

4.1.1 advise you in relation to all matters arising in the course of developing your new Website and where appropriate recommend changes to the Specification; and

4.1.2 provide a single one hour user training session to familiarise up to two people with the Website once it is complete.

4.2 Any Content that you deliver or supply for inclusion in the Website must be delivered to us, where relevant, in a format that we reasonably request and you shall ensure that all such Content is correct and shall update it when we require you to do so.

#### **5. PROJECT MANAGEMENT**

5.1 You shall provide us with all information, documentation and assistance that we reasonably request to enable us to properly provide the Website Development Service to you under the Agreement. We shall not be liable for any delay in the performance of the Website Development Service caused by any delay in providing, or inaccuracy of, any such information, documentation or assistance. In particular, if you do not supply any Content that you are to supply for inclusion on your new Website (for example, copy or pictures) within 30-days of entering into the Agreement we will use sample copy or pictures for the purposes of creating a preview of your new Website to give you an indication of the look and feel of your new Website.

5.2 To facilitate our provision of the Website Development Service to you, you shall give our personnel such access to your personnel and premises as we may reasonably require to fulfil our duties and obligations. In particular, you shall make available sufficient working space and provide such facilities as we may reasonably require, and advise our personnel of the rules and regulations at your premises. You shall be responsible for the safety of all our employees and agents whilst on your premises.

5.3 We shall use all reasonable endeavours to ensure that successful completion of your Website occurs in accordance with any agreed timetable of work, but all delivery dates are non-binding estimates. Time shall not be of the essence in the development of your Website or the provision of the Website Development Service or any part thereof and we shall not be liable for the consequences of any delay in its or their provision.

#### **6. VARIATIONS**

6.1 You may at any time by written notice request, and we may at any time recommend, variations to the Website or Specification during the design and development process.

6.2 Any amendment or variation to the Website or Specification during the design and development process may only be made with our prior written consent and we may levy an extra charge to you at our then standard hourly or daily rates (in addition to the Charges) to reflect the cost and expenses of any additional work required by us to provide such amendment or variation.

#### **7. ACCEPTANCE**

7.1 Once we have created a preview of your new Website and made it available to you for approval, you will have 30-days in which to inspect it and: (a) approve the preview of your new Website as conforming substantially with the Specification; or (b) reject the preview of your new Website as not conforming substantially with the Specification and provide details of the non-conformity. Where you have rejected the preview of your new Website, we will change it so that it conforms substantially with the Specification and ask you to approve our changes. If you do not approve or reject the preview of your new Website (or our subsequent changes to it) within 30-days of the preview site (or within 14-days in the case of our subsequent

changes to it) being made available to you, you will be deemed to accept your new Website (or, as appropriate, our subsequent changes to it) as conforming substantially to the Specification.

- 7.2 Risk of loss or damage to the Website and the Content shall pass to you upon your acceptance, or deemed acceptance, of your new Website under condition 7.1.

## **SECTION C: PROVISIONS APPLYING TO OUR WEBSITE HOSTING SERVICE**

### **8. BASIS OF THIS SECTION**

- 8.1 This Section C shall apply where you have asked us to provide a hosting service for your website ("the Hosting Service"). Please note that you will be required to purchase our hosting service if your website is a Web Wizard website. This is because they will be created using our CMS, which also provides all the websites functionality. Our CMS is hosted on our servers and cannot be hosted on your servers.

### **9. OUR RIGHTS AND OBLIGATIONS**

- 9.1 We shall install or arrange the installation of your website on the Server and make your website available to the public via a connection to the Internet.
- 9.2 In the event that usage of the Hosted Website exceeds the permitted bandwidth, storage allocation or permitted "hits" (in each case as notified to you), we shall be entitled, in our absolute discretion: to (i) suspend access to the Hosted Website; or (ii) move the Hosted Website to a different server and increase the Charges for the Hosting Service accordingly; or (iii) upgrade your hosting package to one which will provide you with increased bandwidth, storage or "hits" allocation and increase the Charges to reflect your new hosting package.
- 9.3 Notwithstanding any other provision in the Agreement, we shall be entitled without notice and at any time, to change the permitted bandwidth or storage allocation for the Hosted Website or make any other change to the Hosting Service: (i) required to comply with safety, security or other applicable legal requirements; or (ii) which does not materially effect the quality or nature of the Hosting Service.
- 9.4 We may subcontract the provision of the Hosting Service under condition 25.2 without your consent and without notice.

### **10. YOUR OBLIGATIONS**

- 10.1 You undertake to ensure compliance with our Acceptable Use Policy in relation to all usage of the Hosted Website. We are entitled at any time, without notice and without liability, to remove the Hosted Website from the Server or bar or restrict access to the Hosted Website in the event of any breach or alleged or suspected breach of our then current Acceptable Use Policy in relation to the Hosted Website, or if otherwise authorised to do so by a law enforcement agency.
- 10.2 You warrant that any material (including the Content) contained in or linked to the Hosted Website and (if applicable) contained in any discussion group, forum, chat room or bulletin board on the Hosted Website ("Material") is and shall remain: (i) legal, decent, honest and truthful; and (ii) compliant with the Data Protection Act 1998 and all other applicable laws and regulations from time to time.
- 10.3 You shall: (i) ensure at all times the accuracy, lawfulness, currency and legislative and regulatory compliance of the Material and the Website; and (ii) be solely liable for any faults or misleading, inaccurate, infringing, defamatory or otherwise unlawful or actionable material contained or referred to in the Website. All imagery provided by us is fully licensed for use only on your Wida Group produced website. (Not for use on any offline marketing ) This also applies to customers instructing us to purchase additional images on their behalf through our third party image library accounts. All Imagery is non-transferable.
- 10.4 You undertake not to use website monitoring software, or other similar software, in relation to the Hosted Website without our prior written consent. If you breach this undertaking, we may increase our Charges in relation to the Hosting Service if we believe your use of such software is having an adverse impact on the Hosting Service (for example, by increasing the bandwidth requirement of the Hosted Website) or the hosting services provided to our other customers.
- 10.5 You are solely responsible for maintaining the confidentiality and security of your internet accounts and usage, including use of your unique log-on ID.

- 10.6 You acknowledge and agree that we may be required by a law enforcement agency or for any other legal or regulatory purposes: (i) to monitor the Content and traffic on the Hosted Website; and (ii) where necessary, to support or defend any dispute, action, cause or other matter that arises, to give evidence of your use of the Hosted Website or allow use of your unique log-on ID.

### **11. TERM**

- 11.1 The Hosting Service shall commence on the date we notify you that we have commenced the provision of the Hosting Service. If we are supplying you the Website Development Service too, this will be the date on which we notify you that a preview of your new Website is available for approval.
- 11.2 The Hosting Service may be terminated by either of us giving 30 days notice in writing to the other, or may be terminated earlier in accordance with the Agreement.
- 11.3 For the avoidance of doubt, the licence we grant you under condition 19.3(ii) shall automatically terminate on the termination of the Hosting Service for any reason.

### **12. SERVICE LEVELS**

- 12.1 We will use our reasonable efforts to maintain the availability of the Hosted Website in accordance with our Service Level Commitments. However, we do not warrant that access to the Hosted Website or its availability to internet users will be uninterrupted or error free, but we shall use reasonable efforts to keep downtime to a minimum. Where we become aware of the unexpected unavailability of the Hosted Website, we will try to rectify the problem in accordance with our Service Level Commitments. We shall also make all commercially reasonable efforts to provide you with email notification of all scheduled and emergency outages, but you will appreciate that this will not always be possible.

### **13. WEBSITE CONTENT AND DATA**

- 13.1 For the avoidance of doubt, we do not monitor and will not have any liability for the content of any communication transmitted by virtue of the Hosting Service. You are ultimately responsible for all content (including text, images and all other media) that is uploaded and made available on your website.
- 13.2 Due to the public nature of the Internet, we shall not be liable for the protection of the privacy of electronic mail or any other information transferred through the Internet or via any network provider and no guarantee or representation is given that the Hosting Service will be free from hackers or unauthorised users. You shall be liable for the content of any emails transmitted by virtue of the Hosting Service and for ensuring that they comply at all times with all relevant legislation (including, but not limited to the Data Protection Act 1998 and all other privacy laws, regulations and guidance notes made or issued thereunder) and, of course, our Acceptable Use Policy.

### **14. BACKUP**

- 14.1 It is your responsibility to maintain appropriate and up-to-date back-up copies of any data, information or other material (including the Content) on the Hosted Website ("Material") as part of your use and routine maintenance of the Hosted Website. In the event of loss or of damage to your Material, you will not be given access to the Server back-up we maintain pursuant to our standard archiving procedure.
- 14.2 We will follow our standard archiving procedures for our Hosting Services. In the event of any loss or damage to the Server, your sole and exclusive remedy will be for us to use reasonable commercial efforts to restore the Hosted Website (including your Material) from the latest back-up we maintained in accordance with our standard archiving procedure. Please be aware Server back-ups are made approximately every 24-hours, therefore, in the event of the need to restore the Server from such back-up copies, any changes you have made to the Hosted Website in the 24-hours preceding the restoration are highly likely to be permanently lost – unless you have yourself kept a back-up copy of such change.

### **15. ALTERATIONS TO THE HOSTED WEBSITE**

- 15.1 Unless otherwise agreed in writing with you, we shall not be responsible for altering, modifying or updating the Hosted Website or its Content or for any liability that may arise as a result of any such alterations, modifications or updating.

## **SECTION D: PROVISIONS APPLYING TO ALL THE SERVICES WE SUPPLY**

## 16. CHARGES AND PAYMENT

- 16.1 In consideration of the performance of our duties under the Agreement you shall pay to us the Charges.
- 16.2 We will invoice you all our Charges: (a) relating to the Website Development Service, as soon as we make a preview of your new Website available to you (even if we have had to use sample copy and pictures as noted in condition 5.1); (b) relating to the Hosting Services, as soon we notify you that the Hosting Service has commenced under condition 11.1; and (c) relating to any other services we provide, when we start to provide those other services, or as otherwise provided in the Proposal.
- 16.3 We shall be entitled, at our absolute discretion, to increase the Charges for the Hosting Service by giving 8 weeks' written notice to you.
- 16.4 The Charges are inclusive of all labour but exclude: (i) value added tax, and similar sales taxes, which if payable shall be charged to you; and (ii) agreed expenses as detailed in the Proposal.
- 16.5 All payments to us by you shall be made immediately after the date of our invoice unless otherwise agreed by us in writing. You must pay our invoice even if your new Website is still in preview format and contains sample copy and pictures as noted in condition 5.1. All payments made by you shall be in pounds sterling and shall be taken by Direct Debit or unless otherwise agreed, cheque or bank transfer to such bank account as is nominated by us in writing. Time for payment shall be of the essence.
- 16.6 The Charges shall be exclusive of all travel, accommodation and subsistence expenses incurred by our personnel in providing the Services, which shall be invoiced separately.
- 16.7 If the Charges or any other money owing to us are not paid by you by the due date we reserve the right to: (i) suspend our performance of the Services or suspend your access to your Hosted Website until the Charges (and any interest payable thereon) is paid; and/or (ii) charge you interest on the overdue amount(s) at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

## 17. DOMAIN NAMES

- 17.1 Where you contract for us to arrange for a domain name registration, we shall endeavour to procure the registration as you request in writing. However, we shall not be liable in the event that the relevant domain name regulatory authority refuses to register the domain name, or suspends or revokes any registration. We shall not act as your agent or on your behalf in any dealings with regulatory authorities.
- 17.2 The registration of a domain name and its ongoing use is subject to the relevant naming authority's terms and conditions of use which you should obtain and consider. You are responsible for ensuring that you are aware of these terms so that you can comply with them. Unless we have assumed this responsibility in writing, it is your responsibility to ensure that your domain name registration is renewed on its renewal date in accordance with such terms.
- 17.3 We shall have the absolute discretion to require you to select a replacement name and may suspend our performance of the Services if, in our opinion, there are reasonable grounds for us to believe that your current choice of name is, may or is likely to be in breach of the provisions of the Agreement, any legal or regulatory requirement or the rights of any third party.
- 17.4 You confirm and warrant that: (i) you are the legal owner of any name supplied by you for use as a domain name in connection with the Hosted Website (or have the authority of the legal owner to use such name); (ii) that such use of name does not infringe the rights of any third party; and (iii) that you are the owner of any trade mark in any such name (or have the authority of the owner of any trade mark to use such name).

## 18. IP ADDRESSES

- 18.1 You acknowledge that you have no right, title or interest in any internet protocol address ("IP address") allocated to you, and that any IP address allocated to you is allocated as part of the Hosting Services and is not portable or otherwise transferable by you in any manner whatsoever.
- 18.2 If an IP address is re-numbered or re-allocated by us, we shall use our reasonable endeavours to avoid any disruption to you.
- 18.3 You agree that you shall have no right, title or interest to any IP address upon termination of the Agreement, and that the acquisition

by you of a new IP address following termination of the Agreement shall be solely your responsibility.

## 19. INTELLECTUAL PROPERTY RIGHTS

- 19.1 All IPR in the programming, tools, skills, coding and techniques we acquire in developing your new Website or any part thereof or otherwise in performing the Services are owned by and shall belong to us and we shall be free to use and adapt any or all of the same in or for the purposes of any other project(s).
- 19.2 All IPR in: (i) the design of your new Website; (ii) any Content we develop or supply; and (iii) any software (including the CMS) that we allow you to use; are owned by and shall belong to us.
- 19.3 Subject to condition 19.5 we grant to you: (i) a non-exclusive, royalty free, non-transferable, perpetual licence to use the IPR referred to in conditions 19.2(i) and 19.2(ii) in connection with operating your new Website; and (ii) a non-exclusive, royalty free, non-transferable licence to use solely for the duration of our provision of the Hosting Services any software (including the CMS) we allow you to use for the purpose of operating and managing the Hosted Website.
- 19.4 You may not decompile, disassemble or reverse engineer your new Website or any software we allow you to use except to the extent permitted by law or with our prior written consent.
- 19.5 Without prejudice to any other rights available to us, we may terminate the licences granted under condition 19.3 if you fail to pay any sum due to us on its due date for payment.
- 19.6 You hereby authorise us to publish on the Internet all materials supplied or authorised by you for inclusion on the Hosted Website.
- 19.7 You grant us a non-exclusive, royalty free licence (with the right to sub-licence to our subcontractors) to use for the purposes of our provision of the Services to you: (i) the IPR in any Content you develop or supply for inclusion on the Website, or you otherwise add to the Hosted Website; and (ii) any other IPR owned by you that we require for provision of the Services. We (and our sub-licensees) may make such copies as may be necessary to perform our obligations including making back-up copies of the Content you supply.

## 20. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 20.1 Each of us (the "indemnifying party") agrees to indemnify the other (the "innocent party") against any liability, loss, expense, cost and damage suffered by the innocent party as a result of any third party IPR infringement claim made against the innocent party in respect of: (i) the innocent party's use (pursuant to this Agreement) of any IPR licensed to the innocent party by the indemnifying party under this Agreement; or (ii) any breach by it of any warranty given in condition 17.4. This indemnity is conditional upon the innocent party seeking to enforce this indemnity:
- 20.1.1 giving written notice to the indemnifying party as soon as reasonably possible after it has received notice of the threat or existence of any such threat;
- 20.1.2 making no statement or admission of liability in respect of the claim;
- 20.1.3 giving all reasonable assistance requested by the indemnifying party in connection with defending or settling the claim (at the indemnifying party's cost and expense); and
- 20.1.4 not having caused or contributed to the cause of the claim by using the indemnifying party's IPR other than in accordance with the terms of the Agreement.

## 21. WARRANTY

- 21.1 We warrant to you that the Services shall be provided with reasonable care and skill, and in accordance with usual industry procedure.
- 21.2 Where you contract with us for the provision of our search engine marketing services, whilst we warrant that our service will be provided with reasonable care and skill, we do not warrant the success of the search engine marketing or optimisation campaign we undertake nor the achievement of any particular results. In particular, we do not warrant the placement of your website at any particular position on a search engine results page, an increase in traffic to your website or an increase in enquiries or sales.
- 21.3 You acknowledge that you are solely responsible for the selection of our appropriate services to meet your business needs and we do not warrant that they will do so.

- 21.4 Our sole obligation in respect of a breach of the warranty contained in condition 21.1 shall be to investigate and, at our option, remedy the breach by repeating the Services or refunding an appropriate part of the Charges.
- 21.5 We shall have no liability or obligation under the warranty in condition 21.1 unless we have received written notice of the breach in the provision of the Services in question as soon as reasonably practicable, and in no event no later than the expiry of 3 months after the date on which the breach came to the your attention, or should have come to your attention. Any such notice must detail the breach and how provision of the Services in question should have occurred.
- 21.6 Except as expressly set out in these conditions, all representations, warranties, terms and conditions, whether oral or written, express or implied by law, custom, statute or otherwise, and including but not limited to satisfactory quality or fitness for any particular purpose, are excluded to the fullest extent permitted by law.

## 22. LIABILITY

- 22.1 We shall not be liable for any defects or errors in the Website, the Hosted Website or provision of the Services or any component parts which arise as a result of: (1) misuse, alteration, maintenance or interference by you or any third party (including virus and hacker attacks); (2) environmental conditions; (3) power failure, power fault or electrical interference; or (4) non-cooperation by you.
- 22.2 Notwithstanding any other provision of the Agreement, our liability to you for death or personal injury resulting from our negligence or for fraudulent misrepresentation shall not be excluded or in any way limited. Neither shall our liability for any other matter for which liability cannot be excluded or limited as a matter of law.
- 22.3 Subject to condition 22.2, our maximum aggregate liability under or in connection with the performance or contemplated performance of the Agreement, whether in contract, tort (including negligence) or otherwise, shall in no circumstances exceed: (a) in the case of the Website Development Service, 125 per cent of the Charges payable (or paid if this sum is higher) to us (before any discounts) under the Agreement in respect of the Website Development Service; and (b) in any other case, 125 per cent of the Charges paid to us under the Agreement in respect of the Service giving rise to the liability in question during the 12-months immediately prior to (or during the Agreement if such period is less than 12-months) the event giving rise to the liability in question (before any discounts).
- 22.4 Unless otherwise provided in the Agreement, we shall not be liable to you for any increased costs or expenses, loss of profit, loss of business, loss of contracts, loss of revenues or loss of anticipated savings or loss of software, application programs or computer held data (in each case whether direct, indirect or consequential) or special loss of any kind, howsoever arising and whether caused by our negligence or otherwise, which may be suffered by you and arise out of or in connection with the supply, or contemplated supply, of the Services or their use. Accordingly, you are advised to acquire business interruption insurance, or other appropriate insurance, to protect you and your business in the event of interruption of the Services (in particular the Hosting Service and the unavailability of the Hosted Website).

## 23. CONFIDENTIALITY

- 23.1 Each of us shall treat as confidential all information obtained from the other under or in connection with the Agreement.

## 24. TERMINATION

- 24.1 Unless terminated in accordance with your right under condition 24.3 or as otherwise provided in the Agreement, you may not terminate the Agreement at any time except with our prior written consent and, only then, if you indemnify us in full against all loss (including, without limitation, loss of profit), costs, damages, charges and expenses we reasonably incur as a result of such early termination.
- 24.2 Notwithstanding condition 24.1, if: (i) you have asked us to provide you with the Website Development Service; (ii) we have agreed to do so subject to these conditions; and (iii) you wish to cancel the Agreement for any reason at any time prior to our completion of the design and development of your new Website; you may do so provided you pay us a percentage of the Charges payable for the Website Development Service to compensate us for the losses, costs and expenses incurred by us in connection with our supply of the Website Development Service to you up to the date you cancel the Agreement. The following percentages shall be payable unless the total losses, costs and expenses that we have incurred are less, in which case we shall only be entitled to recover that lesser amount:

Time at which the Agreement is cancelled:	Percentage of Charges payable:
At any time <b>before</b> the first visit of our website designer	30%
At any time <b>after</b> the first visit of our website designer but before our completion of the design and development of your new Website	The actual cost incurred by us up to a maximum of 100%

All cancellation fees payable under this condition 24.2 will be deducted from any deposit paid by you in respect of the Agreement. If your deposit: (i) is greater than the applicable cancellation fees we will refund the balance to you; or (ii) is less than the applicable cancellation fees you will be required to pay the outstanding amount over and above your deposit within 14 days of the date you cancel the Agreement. Where you fail to pay the outstanding amount within this 14-day period, we shall (without prejudice to any other rights or remedies available to us) be entitled to charge you interest on the amount outstanding in accordance with condition 16.7.

- 24.3 Either of us may immediately terminate the Agreement by notice to the other if the other:

24.3.1 is in breach of an obligation under the Agreement and, if the breach is capable of remedy, fails to remedy the breach within 30 (thirty) days starting on the day after receipt of notice giving details of the breach and requiring the breach to be remedied;

24.3.2 suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

24.3.3 a petition for an administration order is presented in relation to it, or a resolution or a petition to wind up is presented otherwise than for a solvent re-construction or amalgamation, or a receiver, administrative receiver or administrator is appointed; or

24.3.4 it ceases, or threatens to cease, trade.

24.4 Immediately on termination of the Agreement by us for any reason you shall pay us for work undertaken on your behalf prior to termination.

24.5 Upon expiry or termination of the Hosting Service: (i) the licence granted under condition 19.3(ii) shall automatically terminate and you will not be allowed to use our CMS; and (ii) we will not provide you with a copy of the Content; however, you can copy the Content yourself at your own cost directly from the Hosted Website. Accordingly your Web Wizard website will lose all the functionality provided by our CMS and will become a Static website.

24.6 All obligations contained in the Agreement that are expressed or may be implied to continue beyond the expiry or termination of the Agreement shall continue to bind the parties notwithstanding expiry or termination.

## 25. ASSIGNMENT

25.1 You shall not assign, transfer or in any other manner make over to any third party the benefit and/or burden of the Agreement without our prior written consent, which shall not be unreasonably withheld or delayed.

25.2 We may in whole or in part assign, transfer, delegate, subcontract or in any other manner make over to any third party any of our rights or obligations under the Agreement at any time.

## 26. FORCE MAJEURE

26.1 Neither of us shall be deemed to be in breach of the Agreement or otherwise liable to the other for any delay in performance or any non-performance of any obligations under the Agreement if and to the extent that the delay or non-performance is due to an event or circumstance beyond the reasonable control of that party.

## 27. GENERAL

- 27.1 No failure, delay or partial exercise on the part of either of us in exercising any right, power or privilege under the Agreement shall operate as a waiver of it, nor shall it preclude any other or further exercise of it.
- 27.2 Except as otherwise expressly agreed in writing you shall have no rights of set-off, abatement or withholding (statutory or otherwise).
- 27.3 If any provision of the Agreement is held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, that provision shall be divisible from the Agreement and shall be deemed deleted from the Agreement and the validity of the remaining provisions shall not be affected.
- 27.4 Any notice (other than legal documents) shall be delivered personally or prepaid first class post (air mail if posted to or from a place outside the United Kingdom) or by fax or email (if a confirmation or delivery report is received) to the address, fax number or email address provided for such purposes.
- 27.5 The Agreement embodies and sets forth our entire agreement and understanding and supersedes all prior oral or written agreements, representations, understandings or arrangements relating to the subject matter of the Agreement. Neither of us shall be entitled to rely on any agreement, representation, understanding or arrangement not expressly set forth in the Agreement save for any representation made fraudulently.
- 27.6 The Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the courts of England.
- 27.7 The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Agreement and no person other than the parties to the Agreement shall have any rights under it, nor shall it be enforceable under that Act by any person other than the parties to it.
- 27.8 We perform all of our obligations under the Agreement as an independent contractor and nothing in the Agreement shall create or be deemed to create a partnership, joint venture of the relationship of principal and agent or employer and employee.
- 27.9 No variation of the Agreement shall be valid unless it is in writing and signed by or on behalf of each party.
- 27.10 Condition of exclusivity is not offered within any specific market place for any of the goods or services supplied. Only conditions that have been agreed in writing and applied within an enforceable geographic area and timescales may supersede these terms. We reserve the right to work, unconditionally, within any vertical market that meets the requirements of our business.