

**Terms and Conditions of Business
For
Echo Digital Media
Trading as
The Consultancy / The Glazing Vault**

The following Terms and Conditions of Business shall govern all transactions with Echo Digital Media Ltd, (registered in England and Wales with company number 07384798), registered office - Barrington House 41-45 Yarm Lane, Stockton on Tees, TS18 3EA, when providing marketing and related services to our clients. Our trading names include 'The Consultancy and The Glazing Vault. (hereinafter called "the Seller") except as otherwise specifically agreed in writing. Where there is any inconsistency between these Terms and Conditions and any Terms and Conditions which the Buyer seeks to impose, these Terms and Conditions shall prevail.

1.0 Placing and Acceptance of Orders

The placing of an order with the Seller (though based on the Seller's quotation or estimate) shall not constitute a contract, and the Seller reserves the right to accept or reject any order placed at the Seller's absolute discretion.

For the avoidance of doubt, where a potential customer of either The Consultancy divulges any information either as an enquiry for provision of services or in the process of negotiating a contract – such information whether it be "customer data", "potential leads" or any such "commercial material" shall be available only to the "seller/ licence holder" (The Consultancy) and will be neither shared with or divulged to any other party see also Clause 15 Confidentially and Customers Property

1.1 These Terms shall:

- (a) Apply to and be incorporated into this or any future Contract; and
- (b) Prevail over any inconsistent terms or conditions contained, or referred to, in any purchase order, confirmation of order, acceptance of a quotation or specification, or implied by law, trade custom, practice or course of dealing.

1.2 Quotations are given by us on the basis that no agreement or Contract shall come into existence except in accordance with clause 1.3.

Any quotation is valid for a period of 30 days.

1.3 Your purchase order, or your acceptance of a quotation for Services by us, constitutes an offer by you to purchase the Services specified in it on these Terms.

No offer placed by you shall be accepted by us other than:

- (a) by our written acknowledgement; or
- (b) where we have agreed the Project Brief /Plan and we have commenced to provide the Services.

And only upon the clear understanding that when a contract for the supply and purchase of those Services is concluded these Terms will apply. The Buyers standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern these Terms of the Contract.

1.4 An order once accepted expressly or by commencement of work cannot be cancelled except by mutual agreement.

2.0 Commencement

2.1 The Services supplied under the Contract shall be provided by us after we have accepted your offer in accordance with clause 1.3 and we have formulated the Project Brief / Plan in accordance with the provisions of clause 3.0 below.

3.0 Project Brief / Plan

3.1 Project Brief / Plan(s) - no project shall be commenced without the agreement and signature of both parties to the Project Brief / Plan the Project Brief / Plan shall be agreed in the following manner:

(a) The Buyer shall provide the Seller with a request for a Project Plan, accompanied by a written brief setting out requirements and specifications of the Services which are requested from the Seller, (The Brief) including a description of what work is to be done, any dates by which it or each stage of the work is requested to be started and finished, Deliverables, Client Materials and such other information as the Seller may request to allow preparation of a formal draft Project Brief / Plan document which shall be required to be signed as accepted by both parties;

(b) The Seller shall, as soon as reasonably practicable, provide the Buyer with a draft Project Plan; this Plan will comprise as a minimum a copy of the agreed brief, further developed as required, to include programmed dates and additional information as may be required and agreed between the parties.

(c) The Seller and Buyer shall jointly discuss and agree the draft Project Plan and when it has been agreed, the Buyer shall sign a copy of it and return it by fax/post to the Seller within 30 days and it shall become subject to these Terms. Any subsequent Project Plans agreed between the parties and related to this project, will be subject to the then current set of Terms, which are available on our website www.theconsultancy.co.uk, a further copy of which can be provided on request.

3.2 Once the Project Plan has been agreed and signed in accordance with clause 3.1(c), no amendment shall be made to it except in accordance with clause 5, clause 8, clause 9 and clause 17

4.0 Obligations

4.1 **Sellers Obligations** – the Seller shall

4.1.1 -perform the Services with reasonable skill and care and shall use all reasonable endeavours to provide the Services and to deliver the Deliverables in accordance in all material respects with the Project Brief / Plan.

4.1.2 -use reasonable endeavours to meet any performance dates specified in the Project Brief /Plan, but any such dates shall be estimates only and time for delivery shall not (unless otherwise directed) be of the essence of the Contract.

4.1.3 - not be liable for any delays in implementing the Project Brief / Plan resulting from the Buyer's failure to fulfil any of their obligations as set out in these Terms and/or the Project Brief / Plan. The seller reserves the right to invoice for any additional expenses reasonably incurred as a result of such

delays.

4.1.4 -if deemed necessary, shall appoint and notify the Buyer of their Manager in respect of the Project using all reasonable endeavours to ensure that the same person acts as Manager throughout the duration of the Project, but the Seller may replace this person from time to time where reasonably necessary should the interests of the Sellers business so require.

4.2. Buyers Obligations – the Buyer shall-

4.2.1 - Co-operate with the Seller in all matters relating to the Services and the Buyer shall appoint and notify their Manager in relation to the Project, who shall have the authority contractually to bind the Buyer on matters relating to that Project, and through whom questions and enquiries relating to the Services or Deliverables will be channelled;

4.2.2 - Provide to the Seller, their agents, sub-contractors and employees, in a timely manner and at no charge, such access to the Buyers premises, office accommodation, data and such other facilities as reasonably requested by the Seller;

4.2.3 - Provide, in a timely manner, such Client Materials and other information as may be requested and ensure that it is accurate in all material respects;

And for where access is required by the Seller to carry out works at the Buyers premises -

4.2.4 - Be responsible (at the Buyers own cost) for preparing the relevant premises for the supply of the Services;

4.2.5 – Inform the Seller of all health and safety rules and regulations and any other reasonable security requirements that apply at the Buyer’s premises;

4.2.6 - Ensure that all Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms with all standards reasonably requested in order for perform the Services;

4.2.7 -Obtain and maintain all necessary licenses and consents and comply with all relevant legislation in relation to the Services, the installation and/or use of the Sellers Equipment, the use of Client Materials and the use of the Buyers Equipment insofar as such licenses, consents and legislation relate to the Buyers business, premises, staff and equipment in all cases before the date on which the Services are to start;

4.2.8 -provide the Seller with written feedback on such stages of the Project as the Seller may specify, for example via our Client Area.

Consequences of failure to comply with obligations

4.3.1 If the performance of the Sellers obligations under the Contract is prevented or delayed by any act or omission by the Buyer, their agents, sub-contractors or employees, the Seller shall not be liable for any costs, charges or losses sustained or incurred by the Buyer arising directly or indirectly from such prevention or delay.

4.3.2. The Buyer shall be liable to pay to the Seller, on demand, all reasonable costs, charges or losses sustained or incurred by the Seller (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Buyers fraud, negligence, failure to perform or delay in the performance of any of their

obligations under the Contract, subject to the Seller confirming such costs, charges and losses in writing.

4.3.3 The Buyer shall not, without our prior written consent, at any time from the date of the Contract to the expiry of six months after the last date of supply of the Services, solicit or entice away from the Seller or employ or attempt to employ any person who is, or has been, engaged as the Seller's employee or sub-contractor in the provision of the Services.

4.3.4 Any consent given by the Seller in accordance with clause 4.3.3 shall be subject to the Buyer paying to the Seller a sum equivalent to the higher of:

- (i) 25% of the then current annual remuneration of the relevant employee or sub-contractor;
- (ii) the sum the Seller initially paid to a recruitment agency upon the appointment of the relevant employee or subcontractor; or
- (iii) 25% of the annual remuneration to be paid by the Buyer to that employee or subcontractor

5.0 Charges and Payment

5.1 Clause 5.2 shall apply where the Seller provides the Services on a time and materials basis. Clause 5.3 shall apply where the Seller provides the Services for a fixed price. The remainder of this clause 5.0 shall apply in either case.

All credit accounts are strictly net and payable 28 days from the date of the invoice. Where payment has not been made within the agreed terms of credit, Clause 5.6 shall apply.

5.2 Where the Services are provided on a time and materials basis:

- (a) The charges payable for the Services shall be calculated in accordance with the Seller's standard daily fee rates, as per the schedule incorporated into our project Brief or as amended by any subsequent our quotation;
- (b) The Seller's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day, generally worked between 8.30 am and 5.30 pm on weekdays (excluding public holidays), although the exact timings may vary;
- (c) an overtime rate of 150% of the normal daily fee rate shall apply on a pro-rata basis for each day or part thereof for any time worked by individuals whom we engage on the Project and who is required to carry out work outside the hours referred to in clause 5.2(b);
- (d) All charges quoted are exclusive of VAT which shall be added to all invoices at the appropriate /current rate;
- (e) Unless otherwise agreed, the Seller shall invoice as noted in the Project brief / Plan and where not otherwise stated or agreed monthly in arrears for our charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 5.2.

5.3 Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Project Brief /Plan. The total price shall be paid by the Buyer to the Seller (without deduction or set-off) in full or in any instalments as are set out in the Project Brief / Plan. At the end of a period specified the Project Brief / Plan in respect of which an instalment is due, the

Seller shall invoice the Buyer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in clause 5.4.

5.4 Any fixed price and daily rate contained in the Project / Brief Plan excludes:

(a) The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Seller may engage in connection with the Services, the cost of any materials and the cost of Third Party Products reasonably and properly provided by third parties and required by the Seller's for the supply of the Services. Such expenses, materials and third party services shall be invoiced by us at cost plus 10%; and

(b) VAT, which we shall add to our invoices at the appropriate rate, where applicable.

5.5 Unless agreed otherwise in the Project Brief / Plan, the Buyer shall pay each invoice submitted to them by the Seller, immediately upon (meaning within seven Business Days of) receipt in full and in cleared funds.

5.6 Time for payment shall be of the essence of the Contract.

Without prejudice to any other right or remedy that the Seller may have, if the Buyer fails to make payment upon the due date the Seller may:

(a) Charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of The Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and we may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and/or

(b) Suspend all Services until payment has been made in full.

5.7 All sums payable to the Seller under the Contract shall become due immediately on its termination, despite any other provision. This clause 5.7 is without prejudice to any right to claim for interest under the law, or any such right under this agreement or the Contract.

5.8 The Seller may, without prejudice to any other rights, set off any of the Buyer's liability to the Seller against any of the Seller's liability to the Buyer.

5.9 Any deposits or initial payments are non-refundable, save as otherwise agreed in writing between the parties.

6.0 Delivery of Services

6.1 Delivery of services / work either by electronic transfer or actual documentation or delivery of product shall be accepted by the Buyer when tendered or dispatched to the Buyer and notification that the work has been completed has been given by the Seller

6.2 Whilst every effort will be made by the Seller to effect delivery in accordance with pre-arranged dates, no guarantees as to dates of delivery by the Seller is to be implied and the Seller will not accept liability for any loss or damage occasioned by delay in delivery however caused.

6.3 Should work be suspended at the request of, or delayed through any default of the Buyer, for a period of 7 days the Seller shall then be entitled to payment for work already carried out and materials specially ordered, and all works will cease until the cause of the suspension is rectified to the satisfaction of both parties.

7.0 Acceptance of Services

7.1 Any failure or defect which may be discovered in any partial delivery of services shall not entitle the Buyer to cancel the contract. Any such failure or defect should be noted, and immediately advised to the Seller, (if in writing by recorded delivery) who shall take the appropriate action to remedy the failure or defect in a timely manner.

8.0 Changes to Services

8.1 The representatives of the Seller and the Buyer shall make contact at pre-arranged intervals (or at such other intervals as the Seller shall request) to discuss matters relating to the Services. If either party wishes to increase the scope or nature of the Services, it shall submit details of the requested change to the other in writing.

8.2 If either party requests an increase to the scope or nature of the Services, the Seller shall, within a reasonable time, provide a written estimate to the Buyer advising the following -:

- (a) the likely time required to implement the change;
- (b) any variations to charges arising from the change;
- (c) the likely effect of the change on the Project Brief / Plan; and
- (d) any other impact of the change on the terms of the Contract.

8.3 The Seller may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If the Seller request a change to the scope of the Services for any other reason, the Buyer shall not unreasonably withhold or delay consent to it provided that such changes do not materially affect the nature or quality of the Services.

8.4 If the Buyer wishes the Seller to proceed with any increase in scope, the Seller shall be under no obligation to do so unless and until both parties have agreed in writing the necessary variations to the Sellers charges, the Project Brief / Plan and any other relevant terms of the Contract to take account of the change.

9.0 Variation

Subject to clause 3 and clause 8, no variation of the Contract shall be valid unless it is in writing and signed by or on behalf of each of the parties.

10.0. Services and Deliverables Limitation of Liability -

10.1 This clause 10.0 sets out the Sellers entire financial liability (including any liability for the acts or omissions of our employees, agents and sub-contractors) to the Buyer in respect of:

- (a) any breach of the Contract;
- (b) any use made by the Buyer of the Services, the Third Party Products, the Deliverables or any part of them; and

(c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

10.2 All warranties, clauses and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

10.3 Nothing in these Terms limits or excludes the Seller's liability:

(a) for death or personal injury resulting from negligence; or

(b) for any damage or liability incurred by the Buyer as a result of our fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3 the Seller shall not be liable for any damage to any artwork, transparencies or other materials supplied by the Buyer as required to complete the services/ deliverables, all such work and materials will be held by the Seller in good faith and upon completion of use returned to the Buyer.

10.5 Subject to clause 10.2 and clause 10.3 the Seller shall not be liable for any damage to software, damage to or loss of data, loss of profit, anticipated profits, revenues, anticipated savings, goodwill or business opportunity, or for any special, indirect or consequential loss or damage or for any issues arising in respect of Third Party Products.

10.6 The Sellers total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of any Contract shall be limited to the price paid or payable in the twelve months immediately preceding any claim for the Services for the particular element of the Project to which the claim relates.

10.7 Save as provided above, all conditions, warranties and other terms whether express, implied or otherwise, relating to the sale or supply of Goods or Services by the Seller, their quality, condition or description, or their fitness for any particular purpose are excluded.

11.0 Approvals and Proofs

11.1 There will be occasions during the progress of the works when the Seller will request the guidance / agreement of the Buyer in respect of electronic page layouts, data linkages and artwork the Buyer or their approved agent must respond in a timely manner as required by clause 4.2.1 to ensure such guidance /agreement is provided to minimise any project delays. No responsibility or recompense can be held against the Seller for delays incurred in production schedules due to delays in obtaining such agreement.

12.0 Force Majeure

12.1 The Seller shall have no liability to the Buyer under the Contract if prevented from or delayed in performing our obligations under the Contract or from carrying on business by acts, events, omissions or accidents beyond the Sellers reasonable control, including strikes, lock-outs or other industrial disputes (whether involving our workforce or that of any other party), failure of a utility service or transport network, power outage or electrical failure, theft of computers or related equipment, hostile computer act, telecommunications failures, non-availability of third party data

centres, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub- contractors (including the suppliers of any Third Party Products).

13.0. Termination

13.1 Unless the nature of the Services to be provided requires otherwise and is specified in the Project Brief /Plan, subject to clause 13.2, the Contract shall terminate automatically on completion of the Project in accordance with the Project Plan.

13.2 Without prejudice to any other rights or remedies which the parties may have and where the nature of the Services to be provided is on an ongoing basis, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

(a) the other party commits a material breach of any of these Terms or the Contract and

(if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;

(b) An order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party;

(c) An order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

(d) A receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;

(e) The other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;

(f) The other party ceases, or threatens to cease, to trade; or

13.3 On termination of these Terms or the Contract for any reason:

(a) The Buyer shall immediately pay to the Seller all outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Seller may submit an invoice, which shall be payable immediately on receipt;

(b) The Buyer shall (unless otherwise agreed by the Seller), within 10 Business Days return to the Seller all of their Equipment, Pre-existing Materials and Deliverables (other than Bespoke Items which have transferred to the Buyer under clause 14.1 If the Buyer fails to do so, then the Seller (or their representative) may enter the Buyers premises and take possession of them. Until they have been returned or repossessed, the Buyer shall be solely responsible for their safe keeping;

(c) The Seller shall use best endeavours to make available to the Buyer for a period of three months after termination any software /artwork the Seller may have prepared for the Buyer as part of the Services, but the Buyer must acknowledge that such materials cannot be retained indefinitely and any request after the said three-month period may not be possible or may be subject to additional

fees for retrieving such materials from archiving or recreating deleted files; and

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

14.0. Title and Risk

14.1 The services and deliverables shall be at the risk of the Buyer following delivery and, notwithstanding delivery, title of such services and deliverables shall not pass to the Buyer until the Seller has received Payment of all sums owing from the Buyer failing which the Seller shall have the right to repossess or otherwise recover the services and deliverables. Until title passes the Buyer shall hold the services and deliverables as bailee for the Seller and shall store or mark them so that they can at all times be identified as the property of the Seller. Should the Buyer be under a limited or public liability then both the company and its directors shall be bailee's both jointly and severally.

15.0 Confidentiality and Sellers Property

15.1 The Buyer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Buyer by the Seller, their employees, agents or sub-contractors and any other confidential information concerning the Sellers business or products or services which the Buyer may obtain. The Buyer shall restrict disclosure of such confidential material to such of the Buyers employees, agents or sub-contractors as need to know, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind The Buyer.

15.2 All materials, equipment and tools, drawings, specifications and data supplied by the Seller to the Buyer (including Pre-existing Materials and Our Equipment) shall, at all times, be and remain the Sellers exclusive property, but shall be held by the Buyer in safe custody at the Buyers own risk and maintained and kept in good condition until returned to the Seller, and shall not be disposed of or used other than in accordance with the Sellers written instructions or authorisation.

15.3 This clause 15.0 shall survive termination of this agreement, however arising.

16.0 Intellectual Property and Data Protection

16.1 the ownership and use of intellectual property and all Data Protection matters as related to the provision by the Seller of services and deliverables are addressed separately to these Terms and Conditions – [see Terms and Conditions related to Intellectual Property and Data Protection](#)

17.0. Notices

17.1 Notice(s) given under the Contract shall be in writing, sent for the attention of the person, and to the address or fax number, given in the Contract (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery.

17.2 A notice(s) is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this clause 17.0 is not within business hours (meaning 9.00 am to 5.00 pm on a Business Day), at 9.00 am on the first

Business Day following delivery.

17.3 To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

18.0. Dispute Resolution

18.1 If any dispute arises in connection with these Terms or any Contract, directors or other senior representatives of the parties with authority to settle the dispute will, within 14 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

18.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

18.3 To initiate the mediation a party must give notice in writing (ADR notice) to the other party(ies) to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 28 days after the date of the ADR notice.

18.4 The commencement of mediation will not prevent the parties commencing or continuing court proceedings.

19.0. Publicity

19.1 All media releases, public announcements and public disclosures by either party relating to the Contract or its subject matter, including promotional or marketing material, shall be co-ordinated with the other party and approved jointly by the parties prior to release.

19.2 Notwithstanding clause 19.1, The Buyer acknowledges that the Seller may use their name, company name, any Design Concepts (whether or not in draft, accepted or final form) in the Sellers portfolio, presentations and other marketing material, and any Website Software into perpetuity to show clients and potential clients examples of the Sellers work for marketing purposes.

20. Waiver

20.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

20.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

21.0. Severance

21.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

21.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

21.3 The parties agree, in the circumstances referred to in clause 19.1 and if clause 19.2 does not apply, to attempt to substitute for any invalid, unenforceable or illegal provision a valid, enforceable and legal provision which achieves to the greatest extent possible the same effect as would have

been achieved by the invalid or unenforceable provision.

22.0 Status of Pre-Contractual Statements

Each of the parties acknowledges and agrees that, in accepting these Terms and Conditions it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and clauses or not) relating to the subject matter of the Contract, other than as expressly set out in the Contract.

23.0 Assignment

23.1 the Buyer shall not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of the Buyers rights or obligations under these Terms and Conditions.

23.2 The Seller may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any rights or obligations under these Terms and Conditions.

24.0 No Partnership or Agency

24.1 Nothing in these Terms and Conditions is intended to, or shall operate to, create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

25.0 Rights of Third Parties

25.1 These Terms and Conditions are made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

26.0. Governing Law and Jurisdiction

26.1 These Terms and Conditions and any subsequent Contract and any dispute or claim arising out of or in connection with them or their subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

26.2 Subject to clause 18.0, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms, the Contract or their subject matter.

Terms and Conditions
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Provision of Web Site Design / Development
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1.0 Website Design / Development

1.1 Where any of the Services to be provided by the Seller, as specified in the Project Brief / Plan, comprise website design, the provisions of this paragraph 1.0 shall apply.

The Seller at all times and at its own discretion reserves the right to refuse services and or access to its servers. Where additional work is requested by the Buyer that is not specified in the agreed quotation Project Brief / Plan ([see terms and Conditions of Business Clause 3.0](#)) this will be subject to an additional quotation to be provided by the Seller on receipt of supplementary /additional specification. If such additional work is required as part of an existing project, this may affect time scale and overall delivery time of the original project.

1.2 Where the Seller is to provide website design Services they will design, develop and deliver the Website and, where provided in the Project Brief / Plan, host the Website on a Server. Where a Website is created the Seller reserve the right to move the Buyers data to a different server with no previous notice The Buyer agrees that the standard development platform (available upon request or at our website www.theconsultancy.co.uk is an agreeable platform for development of the website and all acceptance testing will occur only on the standard development platform. The Buyer further agrees that any requests relating to hardware or software outside the standard development platform will be deemed additional work

1.3 Once the Seller has have completed the design and development of the Website (the URL of which is specified in the Project Brief/Plan), the Seller shall run such acceptance tests as shall reasonably be required to determine /ascertain whether the Website complies in all material respects with the Project Brief / Plan.

1.4 Acceptance of the Website shall occur when the Website has passed the Acceptance Tests.

1.5 If any failure to pass the Acceptance Tests results from a defect which is caused by an act or omission by The Buyer, or by one of their sub-contractors or agents for whom the Seller has

no responsibility the Website shall be deemed to have passed the Acceptance Tests, notwithstanding such Non-Supplier Defect.

1.6 The Seller shall provide all assistance reasonably requested by the Buyer in remedying such Non-Supplier Defects by supplying such additional services or products as the Seller may at their sole discretion consider necessary. The Buyer shall pay in full for all such additional services and products when invoiced – such invoice shall be at current fees and prices.

1.7 Acceptance of the Website shall be deemed to have taken place upon the occurrence of any of the following events:

(a) The Buyer uses any part of the Website for any revenue-earning purposes or to provide any services to third parties other than for test purposes;

(b) the Website can be accessed and/or viewed by the public for more than 5 Business Days;

(c) The Buyer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of five working days from the date on which the Seller is ready to commence running such Acceptance Tests or retests.

1.8 The Seller warrants that the Website will perform substantially in accordance with the Project Brief / Plan for a period of twelve months from acceptance. If the Website does not so perform, the Seller shall, for no additional charge, carry out any work necessary in order to ensure that the Website complies substantially in accordance with the Project Brief / Plan, provided such notification is given to the Seller within 30 days of the acceptance of the Website.

1.9 The warranty set out in paragraph 1.8 shall not apply to the extent that any failure of the Website to perform substantially in accordance with the Project Brief / Plan is caused by the Buyer or by Buyer Client Materials.

1.10 Websites which the Seller produces will be supported in Microsoft Internet Explorer 11 and above and All other browsers on the latest versions of release no less than 12 months ago including...Safari-Google Chrome- Firefox

1.11 All Intellectual Property Rights in the Website are owned in accordance with the provisions of the Sellers independent Terms and Conditions – [see Intellectual Property and Data Protection.](#)

1.12 The Buyer shall indemnify the Seller against all damages, losses and expenses arising as a result of any claim that the Client Materials infringe the Intellectual Property Rights of a third party.

1.13 Where the Seller has so agreed in the Project Brief / Plan the Seller shall update the Website with Buyers Materials provided from time to time by the Buyer subject to the payment of such hourly rate as shall be agreed in the Project Plan.

1.14 Where the Buyer is granted access to the Server to update the Website other than via any content management system or other technology provided by the Seller, if any problems arise by reason of the Buyers actions, the Seller is under no obligation to provide support to the Buyer,

although the Seller may be prepared to do so, subject to payment of our standard hourly charges. The Seller shall endeavour to use best practices to ensure protection of the software by using the best available coding at all times, however the Seller cannot legislate for any third party activity of "hacking" or introduction of "Viruses"- should such activity occur the Seller shall assist where possible to remedy any defective code etc. Further the Seller reserves the right to charge for the cost of any time undertaken in such activity.

The Seller shall accept no liability in the way of direct, indirect or consequential costs arising out of any third party interference with the coding of the website.

1.15 the Buyer shall ensure that any Client Materials to be included on the Website 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)).

1.16 The Buyer acknowledges that the Seller has no control over any content placed on the Website by visitors to the Website and the Seller does not purport to monitor the content of the Website. The Seller reserves the right to remove content from the Website where it is reasonably believed to be suspect or Inappropriate Content.

1.17 The Buyer shall indemnify the Seller against all damages, losses and expenses arising as a result of any action or claim that the Client Materials constitute Inappropriate Content.

1.18 The Seller may include the statement 'Designed and built by The Consultancy or words to similar effect on the home page of the Website as a hyperlink to www.theconsultancy.co.uk or www.theglazingvault.com for a minimum period of twenty-four months.

1.19 On expiry or termination of the Contract, other than by the Seller, the Seller shall:

(a) Return to the Buyer your Client Materials and shall provide to an electronic copy of the Website (including all content on the Website); and

(b) Provide such assistance as is reasonably requested by to transfer the hosting of the Website from the Sellers Server to that of the Buyer or to that of another nominated service provider, subject to payment of all reasonable expenses.

1.20 Whilst The Seller shall use best endeavours to ensure that if the Website is hosted by or via The seller it is available at all times, The Buyer acknowledges that such hosting is subject to the right of any third party provider of connectivity of any hosting services to the internet to temporarily suspend such connection, to make any modification, change, addition to, or replacement of that third party's equipment, network or software where this is required to conform with any applicable safety or any other statutory or legal requirements, or at any other time. Any target hosting service level information provided to the Buyer is for guidance only.

1.21 The Buyer acknowledges that it is impossible to provide any Website hosting services free of faults or uninterrupted and the Seller does not give any undertaking to do so.

1.22 The period of web hosting, as specified in the Project Brief/ Plan, commences from the first day that the Website is provided for Acceptance Tests.

2.0 Payment for Web Development Services

2.1 Prices are subject to change without notice.

2.2 All quoted prices are exempt of VAT.

2.3 All invoices must be paid in full within 28 days of the invoice date, except where agreed at the Sellers own discretion.

2.4 The Seller reserves the right to decline further work on a project if there are invoices outstanding with the Buyer.

2.5 The Seller reserves the right to remove its work for the Buyer from the Internet if payments are not received

2.6 The payment of all monies due in respect of the provision of web site design shall be in accordance the separate Terms and Conditions for PAYMENT OF ACCOUNTS – [see Payment Of Accounts](#)

3.0 Trade Mark and Domain Name Services

3.1 Where any of the Services to be provided by the Seller, as specified in the Project Brief / Plan, comprise advice and services in relation to trade mark registration or domain name registration, the provisions of this paragraph 3.0 shall apply.

3.2 Where explicitly stated and agreed in the Project Plan the Seller shall use best endeavours to obtain registration of any domain name(s) or trade mark(s) requested by the Buyer.

3.3 The Buyer warrants that they are the owner, or duly authorised licensee, of all Intellectual Property Rights and other rights for any trade mark or domain name for which they request the Seller assist to obtain registration.

3.4 The Buyer acknowledges that the Seller cannot guarantee that any name or design requested by will be available or approved for use and/or registration. The Buyer is required to carry out their own enquiries in this respect, although the Seller may assist you at the Buyers cost if so requested

3.5 The seller reserves the right to require the Buyer to select a replacement domain name or trade mark and The Seller may suspend the provision of the Services if, their opinion, there are reasonable grounds to believe that the Buyers choice of name is, or is likely to be, in breach of the provisions of this paragraph 3.0

3.6 The Seller do not represent warrant or guarantee that any domain name or trade mark applied for by the Buyer or on their behalf will be registered in the Buyers name or is capable of being registered by them, or that use of such trade mark or domain name by the Buyer will not infringe any Intellectual Property Rights, or other rights of any third party. Accordingly, the Seller will not be liable for

any action taken by the Buyer in respect of any requested domain name or trade mark prior to

registration. Any fees payable to the Seller for the Services are not conditional upon obtaining any such registrations.

3.7 The registration of any domain name or trade mark and its ongoing use is subject to the relevant naming authority's or trade mark registration body's terms and conditions, as appropriate, and the Buyer undertake to comply with such terms and conditions.

3.8 The Buyer acknowledges that their contact details, including details which may constitute Personal Data (such as name, address, telephone numbers and email address) will be passed to the relevant domain naming authority. The Buyer acknowledge that it may be a condition for registration with such a naming authority for such information to appear on that naming authority's publicly-accessible 'WHOIS' database and the Buyer hereby consents to their Personal Data being used in such a manner. The Seller reserves the right, however, to register any domain name under the Sellers name.

3.9 The Buyer hereby irrevocably waives any claims against the Seller in respect of any decision by any trade mark registration body or domain naming authority to refuse to register any trade mark or domain name and, without limitation, the Buyer acknowledges that any application or other administration fee payable is non-refundable in any event.

3.10 The Seller accepts no responsibility for the use of any domain name or trade mark by the Buyer and shall take no part in any dispute between the Buyer and any third party in respect thereof. The Seller reserves the right, on becoming aware of a dispute concerning a domain name, at their sole discretion and without giving any reason, to either suspend or cancel the relevant service associated with the domain name, and/or to make such representations to the relevant naming authority as are deemed appropriate.

4. 0 Graphic and Other Design Services

4.1 Where any of the Services to be provided by the Seller, as specified in the Project Brief / Plan, comprise graphic and other design services, the provisions of this paragraph 4.0 shall apply.

4.2 Within 20 Business Days of approval of the Project Brief / Plan in accordance with the provisions of clause 4.0 or at such other time as agreed between parties in the Project Brief / Plan, The Seller shall provide the Buyer with a draft of suggested designs, whether in storyboard, graphic, report or electronic format (Design Concepts).

4.3 Within 10 Business Days of receipt of the draft Design Concepts, or at such other time as agreed by both parties in the Project Brief / Plan, the Buyer shall notify in writing either:
(a) of their approval of one of the draft Design Concepts, in which case the selected draft

Design Concept shall become the final Design Concept;

(b) of suggested changes which they require to the draft Design Concepts, in which case

The Seller shall, within a further 10 (approximately) Business Days provide a further draft of the Design Concepts incorporating the suggested changes.

4.4 The Buyer acknowledges that any changes to the Design Concepts arising in respect of paragraph 4.3(b) may incur additional charges if the time or number of changes engaged by the Seller in carrying out such changes exceeds the total time or number of changes allocated for Design Concept reviews as set out in the Project Brief / Plan.

4.5 If the Buyer reasonably believes that the further draft of the Design Concepts provided in accordance with paragraph 4.3(b) is not satisfactory, they may at their own cost revise the draft Design Concepts and present them to the Seller within five Business Days of the receipt of the revised draft. Upon such receipt the Seller will notify the Buyer in writing within a further five Business Days whether such suggested alterations to the draft Design Concepts are feasible in whole or in part and the additional cost implications, if any, of the changes proposed by the Buyer are to be incorporated.

4.6 Within two Business Days of the Buyers receipt of the Sellers comments under paragraph 4.3 above the Buyer shall either:

(a) approve the suggestions and the amended draft Design Concept selected by the Buyer shall be the final Design Concept; or

(b) suggest further amendments to the draft Design Concepts in accordance with the provisions of paragraph 4.5 and that procedure shall continue until such time as the final Design Concept has been approved in accordance with the provisions of this paragraph 4.6.

4.7 The buyer is required to print the final artwork comprising the final Design Concept and fax or electronically transmit such artwork back to the Seller, by way of acceptance of it. In the event that the Buyer has not so responded within 10 Business Days indicating their acceptance or rejection, the Buyer will be deemed to have accepted the final Design Concept on the 11th Business Day following receipt. Should the Seller fail to receive the Buyers approval of Artwork in accordance with the noted or any subsequently agreed timescale they shall consider the project suspended and cease all further works until such time as your approval or further instructions are received. Should the Buyer failure to approve artwork result in a termination of the contract The Seller shall invoice for all costs incurred up to and including the date of such termination.

4.8 Where any conflicts in respect of Intellectual Property may occur the Sellers Terms and Conditions for Intellectual Property and Source Code shall apply [see Intellectual Property Rights](#)

4.9 All Intellectual Property Rights in the final Design Concept shall be transferred to the Buyer following payment of all sums due from the Buyer to the Seller. Following any such assignment, the Buyer hereby grants to the Seller a non-exclusive license of such Intellectual Property Rights in the

final Design Concept for the purposes of providing any future or outstanding Services in accordance with the terms of the relevant Project Plan. The Seller retain the ownership of all Intellectual Property Rights in all Design Concepts other than the final Design Concept, and the Buyer acknowledges that the Seller can use the retained Design Concepts for any purpose or separate client.

4.10 The Buyer shall be responsible for notifying the Seller prior to the preparation of the Project Brief / Plan of any specific advertising requirements or restrictions relevant to the particular profession, trade or industry in which the Buyer operates insofar as they affect the Services the Seller is to provide. The Seller shall have no obligation to investigate or verify any such advertising requirements or restrictions and shall have no liability to the Buyer in the event that any information provided to us in this respect proves to be inaccurate.

5.0 Other Services

5.1 Where the Services to be provided (whether by the Seller or as Third Party Products) comprise such marketing campaign aspects as pay-per-click advertising, search engine optimisation or assisting the Buyer with their product placement or marketing strategy, the Buyer acknowledges that the Seller cannot guarantee or quantify the results of any such campaign and such Services are to be used at the Buyers own risk.

5.2 Where the Services result in the creation of any additional Intellectual Property Rights (such as, but not limited, to Intellectual Property Rights in software or interactive applications) not referred to in these Terms or the Project Plan, such Intellectual Property Rights shall, unless we agree in writing, vest automatically in the Seller. Any license of such Intellectual Property Rights shall be on such terms as both parties shall agree.

6.0 Third Party Products

6.1 Where the Seller agrees as part of the Services to provide Third Party Products, these shall be supplied in accordance with the relevant licensor's or third party's standard terms and conditions. The Buyer acknowledges, for example, that the Website Software incorporates certain open source binaries that are licensed for use and are subject to restrictions pursuant to, and under separate agreements. By using these open source binaries the Buyer agrees to be bound by and comply with the terms of those additional agreements. The Seller gives no warranty in relation to and have no liability in connection with the Buyers use of these open source binaries.

6.2 Where the Buyer uses such Third Party Products, they do so on the basis that the Seller appoints

the relevant supplier of the Third Party Products as the Buyer's agent, with a direct contractual relationship arising between The Buyer and the relevant supplier. Whilst The Seller shall all reasonable endeavors to ensure that any Third Party Products are supplied to the Buyers satisfaction, the Seller accepts no liability in this respect and the Buyer is responsible for checking compliance with their requirements and seeking any legal redress against the supplier in the event that any problems arise.

6.3 The estimated costs of any such Third Party Products included in the Project Brief / Plan are for guidance purposes only and the Buyer shall be liable to indemnify us for our full costs in this respect.

6.4 Where the Third Party Products include photography, illustration, painting or digital animation, the Buyers use of such photography, illustration, painting or digital animation will usually be on a copyright license basis only, unless otherwise agreed by the Seller in writing.

5.5 Where the Third Party Products include printing, the Buyer acknowledges that such services are prone to errors and the Buyer shall be responsible for approving any mock-ups or 'PDF' documents provided to them.

6.6 Where the Third Party Products include the provision of direct mailing services, the Buyer are responsible for complying with the terms and conditions of the data supplier as regards the use and any subsequent use of mailing lists obtained.

**Terms and Conditions
For
Provision of Web Site Hosting
by
Echo Digital Media
Trading as
The Consultancy / The Glazing Vault**

The following Terms and Conditions for Provision of Web Site Hosting shall govern all transactions with Echo Digital Media Ltd, (registered in England and Wales with company number 07384798), registered office -Barrington House 41-45 Yarm Lane, Stockton on Tees, TS18 3EA, when providing marketing and related services to our clients. Our trading names include 'The Consultancy and The Glazing Vault. (hereinafter called "the Seller") except as otherwise specifically agreed in writing. Where there is any inconsistency between these Terms and Conditions and any Terms and Conditions which the Buyer seeks to impose, these Terms and Conditions shall prevail.

These terms and conditions are written in generic format for general use with all Consultancy / Glazing Vault Clients – where a Buyer requests a bespoke agreement this shall be drafted separately and agreed between the parties – such new "bespoke Web Site Hosting Agreement" will then replace and take precedent over any terms contained within this document.

1.0 TERMS

1.1 Subject to these Terms and Conditions, the Seller will provide Web Hosting services for the Buyer subject to the following terms:

- a) The Buyer agrees to an initial twelve (12) month contractual term of service ("Term").
- b) The period of web hosting, as specified in the Project Brief/ Plan, (see Terms and Conditions of Business clause 3.0) commences from the first day that the Website is provided for Acceptance Tests. The first payment plus setup charges, if any, shall be due in advance of any service provided. Service shall begin upon Company receipt of payment for such first Term of service or upon a mutually agreed upon alternate date.
- c) This Agreement will automatically renew for successive twelve (12) month Terms unless cancelled in writing by the Buyer at least 30 days prior to the end of Term renewal date. Renewal prices are subject to change. Renewal of services by the Buyer indicates agreement to any Contract revisions and price changes. Renewal fees for the following term will be automatically invoiced to the Buyers account.

1.2 Whilst The Seller shall use best endeavors to ensure that if the Website is hosted by or via the seller it is available at all times, The Buyer acknowledges that such hosting is subject to the right of any third party provider of connectivity of any hosting services to the internet to temporarily suspend such connection, to make any modification, change, addition to, or replacement of that third party's equipment, network or software where this is required to conform with any applicable safety or any other statutory or legal requirements, or at any other time. Any target hosting service level information provided to the Buyer is for guidance only.

1.3 The Buyer acknowledges that it is impossible to provide any Website hosting services free of faults or uninterrupted and the Seller does not give any undertaking to do so.

1.4 The Seller shall if so requested provide the Buyer with a level of technical support as agreed between the parties as relevant to the level of service – the cost for such support will be charged to the Buyer at the rates as included in the separate Terms and Conditions of Payment of Accounts

2.0 The Service

2.1 As the levels of service required by individual companies each project shall be uniquely reviewed and the precise requirements of the service specification shall be incorporated as an Attachment to this document to address individual client requirements this document shall include but not be limited to –

Storage – band width – compliance – backups (scheduled and on demand) – telephone support

2.2 Service exclusions - the following are specifically excluded from the service:

- a) The cost of domain name registration.
- b) Any access by the Buyer to the Sellers web space via FTP or means other than a standards-compliant HTML web browser.
- c) Advice or support to enquiries received from persons other than the Buyer or their designated representatives
- d) Advice or support to enquiries outside of this Hosting Agreement.
- e) Adult or any content in contravention of UK or International law
- f) Any mail distribution requirements other than by agreement.

The Seller will exercise no control whatsoever over the content of the information passing through the network, email or web site.

2.3 The Buyers responsibilities

The Buyer shall take full responsibility for ensuring that they will not display via the web space any materials that:

- a) Break, contravene, infringe or violate any UK or foreign laws or regulations.
- b) Break, contravene, infringe or violate any intellectual property rights of the Seller or any other third party.
- c) Are defamatory, slanderous or libellous. harassing or threatening or are discriminatory based on gender, race or age, or that promote hate
- d) That may contain viruses or other computer programming defects that result in damage to the Seller or any third party.

2.4 The Buyer accepts that they may only utilise the bandwidth allocated to them in the relevant Hosting Package. Additional fees will be charged for exceeding the relevant bandwidth allowance on the selected Hosting Package.

2.5 The Buyer accepts that they will use only properly licensed third party software in relation to the service.

2.6 The Buyer acknowledges that backups and site maintenance remain their responsibility and are not written or implied in this contract.

3. 0 Payment Policy

3.1 All payments are set up on a prepay basis, the Seller reserves the right to changes of prices of accounts or services at any time, all pricing is guaranteed for the period of the pre-payment. Payment is due every month or 365 days (dependent upon terms of agreement) following the date of acceptance the Buyer will automatically be charged again at the end of the pre pay period unless

closure notification has already been given. In situations where the Buyer has not paid the Seller will immediately suspend all services on line until such time as the outstanding charge is successfully processed. Additionally, the Seller reserves the right to suspend other services until the outstanding debt is cleared

Any non-payment of a recurring invoice is subject to a £25 administration charge which shall be charged to the account of the Buyer

The Buyer is responsible for all monies owed on the account from the time of establishment until the time that the Buyer sends a written cancellation of the agreement. The Seller reserve the right to terminate/suspend any service if payment schedules are not being followed.

3.2 The Seller reserves the right to cancel the service at any time in this event the Buyer will be entitled to a refund based upon the remaining period of the service/agreement except in the case where the Buyer contravenes the terms of this agreement

All hosting is subject to a 12-month contract, if the Buyer does not cancel before the end of the current year they shall be liable for another twelve months of charges. Should the Seller fail to receive confirmation of any renewal we shall remove all services on line with immediate effect on the date of the termination of the annual agreement

4.0 Trade Mark and Domain Name Services

4.1 Where any of the Services to be provided by the Seller, as specified in the Project Brief / Plan, comprise advice and services in relation to trade mark registration or domain name registration, the provisions of this paragraph 4.0 shall apply.

4.2 Where explicitly stated and agreed in the Project Plan the Seller shall use our best endeavors to obtain registration of any domain name(s) or trade mark(s) requested by the Buyer.

4.3 The Buyer warrants that they are the owner, or duly authorized licensee, of all Intellectual Property Rights and other rights for any trade mark or domain name for which they request the Seller assist to obtain registration.

4.4 The Buyer acknowledges that the Seller cannot guarantee that any name or design requested by will be available or approved for use and/or registration. The Buyer is required to carry out their own enquiries in this respect, although the Seller may assist you at the Buyers cost if so requested

4.5 The seller reserves the right to require the Buyer to select a replacement domain name or trade mark and The Seller may suspend the provision of the Services if, their opinion, there are reasonable grounds to believe that the Buyers choice of name is, or is likely to be, in breach of the provisions of this paragraph 4.0

4.6 The Seller do not represent warrant or guarantee that any domain name or trade mark applied for by the Buyer or on their behalf will be registered in the Buyers name or is capable of being registered by them, or that use of such trade mark or domain name by the Buyer will not infringe any Intellectual Property Rights, or other rights of any third party. Accordingly, the Seller will not be liable for any action taken by the Buyer in respect of any requested domain name or trade mark prior to registration. Any fees payable to the Seller for the Services are not conditional upon obtaining any such registrations.

4.7 The registration of any domain name or trade mark and its ongoing use is subject to the relevant naming authority's or trade mark registration body's terms and conditions, as appropriate, and the Buyer undertakes to comply with such terms and conditions.

4.8 The Buyer acknowledges that their contact details, including details which may constitute Personal Data (such as name, address, telephone numbers and email address) will be passed to the relevant domain naming authority. The Buyer acknowledge that it may be a condition for registration with such a naming authority for such information to appear on that naming authority's publicly-accessible 'WHOIS' database and the Buyer hereby consents to their Personal Data being used in such a manner. The Seller reserves the right, however, to register any domain name under the Sellers name.

4.9 The Buyer hereby irrevocably waives any claims against the seller in respect of any decision by any trade mark registration body or domain naming authority to refuse to register any trade mark

or domain name and, without limitation, the Buyer acknowledges that any application or other administration fee payable is non-refundable in any event.

4.10 The Seller accepts no responsibility for the use of any domain name or trade mark by the Buyer and shall take no part in any dispute between the Buyer and any third party in respect thereof. The Seller reserves the right, on becoming aware of a dispute concerning a domain name, at their sole discretion and without giving any reason, to either suspend or cancel the relevant service associated with the domain name, and/or to make such representations to the relevant naming authority as are deemed appropriate.

5.0 Proprietary Information

Proprietary information exchanged here under shall be treated as such by Seller and Buyer. This information shall include, but not be limited to, the provisions of these Terms and Conditions, product and services information and pricing. The Buyer further agrees to not decompose, disassemble, decode or reverse engineer any Company program, code or technology or any portion thereof delivered to the Buyer / Client

6.0 Permission and Copyright

The Buyer hereby agrees that all media and content on the site are either owned by the Buyer or used with full permission of the original authors. The Buyer agrees to hold harmless, protect and defend the Seller from any claim or suit that may arise as a result of using the supplied media and content.

7.0 Warranties

The Seller makes no warranties or representations of any kind, whether expressed or implied for the service it is providing. The Seller also disclaims any warranty of merchantability or fitness for any particular purpose and will not be responsible for any damages that may be suffered by Buyer, including loss of data resulting from delays, non-deliveries or service interruptions by any cause or errors or omissions of the Buyer. Use of any information obtained by way of the Seller is at the Buyers own risk, and the Seller specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of an end-to-end connection. The Seller does not represent guarantees of speed or availability of end-to-end connections. The Seller expressly limits its damages to the Buyer for any non-accessibility time or other down time to the pro-rata monthly charge during the system unavailability. The Seller specifically denies any responsibilities for any damages arising as a consequence of such unavailability.

8.0 Force Majeure

8.1 The Seller shall have no liability to the Buyer under the Contract if prevented from or delayed in performing our obligations under the Contract or from carrying on business by acts, events, omissions or accidents beyond the Sellers reasonable control, including strikes, lock-outs or other industrial disputes (whether involving our workforce or that of any other party), failure of a utility service or transport network, power outage or electrical failure, theft of computers or related equipment, hostile computer act, telecommunications failures, non-availability of third party data centres, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub- contractors (including the suppliers of any Third Party Products).

9.0. Termination

9.1 Without prejudice to any other rights or remedies which the parties may have and where the nature of the Services to be provided is on an ongoing basis, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

- (a) the other party commits a material breach of any of these Terms or the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
- (b) An order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party;
- (c) An order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);
- (d) A receiver is appointed of any of the other party's assets or undertaking, or circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;
- (e) The other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way;
- (f) The other party ceases, or threatens to cease, to trade;

10.0 Indemnification

The Buyer shall indemnify and hold the Seller harmless from and against any and all claims, judgments, awards, costs, expenses, damages and liabilities (including reasonable attorney fees) of whatsoever kind and nature that may be asserted, granted or imposed against the Buyer directly or indirectly arising from or in connection with the Buyer's marketing or support services of the product or services or the unauthorized representation of the product and services or any breach of this Agreement by the Buyer .

11.0. Nondisclosure

This Terms and Conditions authorises the Seller to use any information provided to them as required for the purpose of providing the service. The Buyer hereby irrevocably waives any and all claims and causes of action that they may have arising from such disclosure or use of the service registration information. The Seller agrees that any information received from the Buyer will not be used in any way except for the purposes stated in these Terms and Conditions . The Seller will take reasonable precautions to ensure that any information provided by the Buyer is protected against loss, misuse, unauthorised access or disclosure, alteration or destruction.

The Seller and any third party associates agree that, except if directed by the Buyer, it will not at any time during or after the term of these conditions disclose any confidential information. Likewise, the Buyer agrees that it will not convey any confidential information about the Seller to another party.

12.0. Dispute Resolution

12.1 If any dispute arises in connection with these Terms or any Contract, directors or other senior representatives of the parties with authority to settle the dispute will, within 14 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

12.2 If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR.

12.3 To initiate the mediation a party must give notice in writing (ADR notice) to the other party(ies) to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 28 days after the date of the ADR notice.

12.4 The commencement of mediation will not prevent the parties commencing or continuing court proceedings.

13 0 General

If any provision contained within these Terms and Conditions is held to be unenforceable, the enforceability of the remaining provisions shall in no way be affected or impaired thereby.

14.0. Governing Law and Jurisdiction

14.1 These Terms, the Contract and any dispute or claim arising out of or in connection with them or their subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

14.2 Subject to clause 12.0, the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms, the Contract or their subject matter

**Terms and Conditions related to Intellectual Property and Data Protection
For
Echo Digital Media
Trading as
The Consultancy / The Glazing Vault**

The following Terms and Conditions related to Intellectual Property and Data Protection shall govern all transactions with Echo Digital Media Ltd, (registered in England and Wales with company number 07384798), registered office -Barrington House 41-45 Yarm Lane, Stockton on Tees, TS18 3EA, when providing marketing and related services to our clients. Our trading names include 'The Consultancy and The Glazing Vault. (hereinafter called "the Seller") except as otherwise specifically agreed in writing. Where there is any inconsistency between these Terms and Conditions and any Terms and Conditions which the Buyer seeks to impose, these Terms and Conditions shall prevail.

1.0 Intellectual Property Rights

1.1 As an initial condition it is agreed between the Buyer and the Seller that all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials (but not the Client Materials) shall be owned by the Seller, Subject to clauses 1.2, 1.3 and 1.4, of these conditions and to payment by the Buyer of all sums due to the Seller under any Contract, the Seller:

(a) License all such rights, other than the Bespoke Items (as defined in clause 1.2), to the Buyer on a non-exclusive, non-transferrable, worldwide basis to such extent as is necessary to enable the Buyer to make reasonable use of the Deliverables and the Services. Such licence shall be free of charge unless the Deliverables include a content management system in any configuration, and/or any Website Software in which case the Buyer will be required to pay an annual licence fee and may be required to enter into a separate licensing agreement. If these Terms or the Contract is terminated, this licence will automatically terminate, unless otherwise agreed in writing; and

(b) Transfer to the Buyer ownership of all Intellectual Property Rights in the Bespoke Items, subject to the Buyer agreeing to license back to the Seller the Intellectual Property Rights so transferred to the Buyer, so as to enable the Seller to perform the Services required of the Seller under any Contract.

1.2 For the purposes of this clause 1.0 'Bespoke Items' means any graphic design, such as logos and brochures, and the Website's 'look and feel' and related Front End Code, prepared by the Seller to the Buyers specific requirements and forming part of the final Design Concept – (All Intellectual Property Rights in the final Design Concept shall be transferred to the Buyer following payment of all sums due from the Buyer to the Seller. Following any such assignment, the Buyer hereby grant to the Seller a non-exclusive license of such Intellectual Property Rights in the final Design Concept for the purposes of providing any future or outstanding Services in accordance with the terms of the relevant Project Plan. The Seller shall retain the ownership of all Intellectual Property Rights in all Design Concepts other than the final Design Concept, and the Buyer acknowledges that the Seller can use the retained Design Concepts for any purpose or other clients.

Specifically excluded from 'Bespoke Items' are The Sellers content management system, any Website Software, any interactive animation, the pagination and layout of any graphics, and the designs associated with a virtual tradeshow or any white-labelled product (unless it is agreed in the Project Brief/ Plan that bespoke graphics are to be created and the Intellectual Property Rights in

such tradeshow designs are to be transferred to the Buyer).

1.3 For the avoidance of doubt, the Seller will retain ownership of the architecture and prototype of any graphic design or Website designed for the Buyer (which the Seller may re-use in the same or similar structure and layout), together with underlying Website Software (including Back End Code) and any other Pre-Existing Materials, including, but not limited to our content management system and any interactive animation.

1.4 the Buyer acknowledges that, where the Seller does not own any Pre-existing Materials (other than the Buyers Client Materials), the Buyers use of rights in Pre-existing Materials (such as in the case of any Third Party Products) is conditional on the Seller obtaining a written licence (or sub-licence) from the relevant licensor or licensors on such terms as will entitle the Seller to license such rights to the Buyer.

2.0 Data Protection

2.1 The Buyer acknowledges and agrees that details their name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Seller in connection with the Services.

2.2 The Seller warrants that, to the extent the Seller will process any Personal Data on the Buyers behalf:

(a) The Seller shall act only on your instructions; and

(b) The seller shall have in place appropriate technical and organisational security measures against unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.

2.3 The Buyer warrants and undertake to the Seller that:

(a) The Buyers Personal Data has been and shall be obtained and processed (in so far as your Personal Data has been processed) lawfully;

(b) the Services to be provided by the Seller will be entirely consistent with and appropriate to the specified and lawful purposes for which the Buyer has been notified under the Data Protection Act 1998 for the Buyers Personal Data (Notified Purposes);

(c) The Buyer have not and will not during the continuance of any Contract use or disclose Personal Data or any part of it in a manner incompatible with the Notified Purposes;

(d) The Buyers Personal Data is adequate, relevant and not excessive in relation to the Notified Purposes; and

(e) The Buyers Personal Data is accurate and the Buyer shall keep their Personal Data fully up to date at all times during the continuance of any Contract.

2.4 The Buyer shall indemnify the Seller against any loss or damage which the Seller may sustain or incur as a result of any breach by the Buyer

**Terms and Conditions for Payment of Accounts
to
Echo Digital Media
Trading as
The Consultancy / The Glazing Vault**

The following Terms and Conditions shall govern all financial transactions in respect of the Payment of Accounts when trading with Echo Digital Media Ltd, (registered in England and Wales with company number 07384798), registered office -Barrington House 41-45 Yarm Lane, Stockton on Tees, TS18 3EA, when providing marketing and related services to our clients. Our trading names include 'The Consultancy and The Glazing Vault. (hereinafter called "the Seller")' except as otherwise specifically agreed in writing. Where there is any inconsistency between these Terms and Conditions and any Terms and Conditions which the Buyer seeks to impose, these Terms and Conditions shall prevail.

1.0 Charges and Payment

1.1 Clause 1.2 shall apply where the Seller provides the Services on a time and materials basis. Clause 1.3 shall apply where the Seller provides the Services for a fixed price. The remainder of this clause 1.0 shall apply in either case.

All credit accounts are strictly net and payable 28 days from the date of the invoice. Where payment has not been made within the agreed terms of credit, Clause 1.6 shall apply.

1.2 Where the Services are provided on a time and materials basis:

(a) The charges payable for the Services shall be calculated in accordance with the Seller's standard daily fee rates, as per the schedule incorporated into our project Brief or as amended by any subsequent our quotation;

(b) The Seller's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day, generally worked between 8.30 am and 5.30 pm on weekdays (excluding public holidays), although the exact timings may vary;

(c) an overtime rate of 150% of the normal daily fee rate shall apply on a pro-rata basis for each day or part thereof for any time worked by individuals whom we engage on the Project and who is required to carry out work outside the hours referred to in clause 1.2(b);

(d) All charges quoted are exclusive of VAT which shall be added to all invoices at the appropriate rate;

(e) Unless otherwise agreed, the Seller shall invoice as noted in the Project brief / Plan (see Terms and Conditions of Business Clause 3.0) and where not otherwise stated or agreed monthly in arrears for our charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 1.2.

1.3 Where the Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Project Brief / Plan. The total price shall be paid by the Buyer to the Seller (without deduction or set-off) in full or in any instalments as are set out in the Project Brief / Plan. At the end of a period specified the Project Brief / Plan in respect of which an instalment is due, the Seller shall invoice the Buyer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate, calculated as provided in clause 1.4.

1.4 Any fixed price and daily rate contained the Project / Brief Plan excludes:

(a) The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the individuals whom the Seller may engage in connection with the Services, the cost of any materials and the cost of Third Party Products reasonably and properly provided by third parties and required by the Seller's for the supply of the Services. Such expenses, materials and third party services shall be invoiced by us at cost plus 10%; and

(b) VAT, which we shall add to our invoices at the appropriate rate, where applicable.

1.5 Unless agreed otherwise in the Project Brief / Plan, the Buyer shall pay each invoice submitted to them by the Seller, immediately upon (meaning within seven Business Days of) receipt in full and in cleared funds.

1.6 Time for payment shall be of the essence of the Contract.

Without prejudice to any other right or remedy that the Seller may have, if the Buyer fails to make payment upon the due date the Seller may:

(a) Charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of The Bank of England, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and we may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and/or

(b) Suspend all Services until payment has been made in full.

1.7 All sums payable to the Seller under the Contract shall become due immediately on its termination, despite any other provision. This clause 1.7 is without prejudice to any right to claim for interest under the law, or any such right under this agreement or the Contract.

1.8 The Seller may, without prejudice to any other rights, set off any of the Buyer's liability to the Seller against any of the Seller's liability to the Buyer.

1.9 Any deposits or initial payments are non-refundable, save as otherwise agreed in writing between the parties.