

## 1. DEFINITIONS

- a) **"Agreement"** - Means these terms and conditions
- b) **"Services"** - Means the work that shall be carried out by N2 Visual Communications pursuant to this contract.
- c) **"Purchaser"** - Means the organisation, business or individual that purchases services from N2 Visual Communications.
- d) **"N2 Visual Communications"** (Service Provider) - Means the Primary Company that provides services for the customer.
- e) **"Address for Invoices"** has the meaning given on page 2 of this Contract;
- f) **"Online services platform"** – Means the website application owned and operated by the service provider for the provision of marketing services defined within the Contract;
- g) **"Authorised Officer"** means a person designated as such by the Purchaser from time to time as notified in writing to the Service Provider to act as the representative of the Purchaser for all purposes connected with this Contract (including any authorised representative of such person) and the Authorised Officer at the Commencement Date is the person set out as such on page 2 of this Contract;
- h) **"Commencement Date"** means the date set out as such on page 2 of this Contract;
- i) **"Contract"** means this contract concluded between the Purchaser and the Service Provider including the Specification and all other documents which are incorporated or referred to herein;
- j) **"Contract Manager"** means a person designated as such by the Service Provider from time to time as notified in writing to the Purchaser to act as the duly authorised representative of the Service Provider for all purposes connected with the Contract (including any authorised representative of such person) and the Contract Manager at the Commencement Date is the person set out as such on page 2 of this Contract;
- k) **"Contract Price"** means the price which the Purchaser shall pay to the Service Provider for the provision of Goods and Services.
- l) **"Contract Period"** means the period of this Contract as agreed on page 2 of this Contract;
- m) **"End Date"** means the date set out as such on page 2 of this Contract;
- n) **"Intellectual Property"** means patents, trade marks, service marks, trade names, copyright (including rights in computer software and in websites), rights in databases, rights in designs, know how and all and any other intellectual property;
- o) **"Information"** has the means any data or information provided by the purchase that is added to the service platform.

- p) "Specification" means the specification attached to this Contract at Schedule 1;
- q) "Staff" means all those persons employed or engaged by the Service Provider to perform this Contract including, without limitation, the Service Provider's staff, employees, servants, officers, agents and sub-Service Providers used in connection with the performance of this Contract and those employees transferred to the Service Provider.

## 2. CONTRACT PERIOD

- a) This Contract shall commence on the Commencement Date and (subject to any earlier termination in accordance with its terms or operation of law) shall expire on the End Date.
- b) The Purchaser may at its absolute discretion terminate the Contract on not less than six Months' notice in writing to the Service Provider to expire at any time.
- c) The Purchaser may at its absolute discretion extend the Contract Period into a secondary term of a further twelve months on giving the Service Provider not less than three months notice prior to the date when the Contract would otherwise expire.

## 3. SERVICES

- a) The Service Provider agrees to provide the Services to the Purchaser from the Commencement Date and throughout the Contract Period.
- b) In addition to any other specific obligations imposed by this Contract, the Service Provider shall exercise all reasonable care and skill in providing the Services and shall at all times

provide the Services in accordance with this Contract.

- c) The services will be provided in line with the service providers service level agreement (SLA) unless otherwise specified within this contract or any other schedule or appendix.

## 4. CONTRACT PRICE

- a) The Purchaser shall pay to the Service Provider the sums set out in Schedule 2 in consideration of the Service Provider's due and proper performance of its obligations under the Contract.
- b) For the avoidance of doubt, the Contract Price includes payment in full for all Staff, equipment, materials, facilities and resources required by the Service Provider to provide the Services in accordance with this Contract. Any Staff, equipment, materials, facilities or resources needed or used by the Service Provider to provide the Services in accordance with this Contract shall be provided by the Service Provider.
- c) Any additional requests made by the purchaser that fall outside of this contract will be quoted additionally and may require an additional set of T&Cs.
- d) The Contract Price shall remain firm for the period of the contract. A price review between the Purchaser and Service Provider will be triggered should the contract be extended into a secondary term.

## 5. PAYMENTS

- a) The service provider will invoice 50% of the setup cost on agreement of this

contract.

- b) The remaining 50% of the setup cost will be invoiced by the service provider on the go-live date of the online services platform.
- c) By the end of each Month, the Service Provider shall invoice the Purchaser for the Contract Price payable for any Services provided by the Service Provider in that Month. Such invoices shall be sent to the Address for Invoices and must contain the Invoice Information agreed.
- d) The Contract Price is exclusive of Value Added Tax ("VAT") a sum equal to which shall be payable, if applicable, by the Purchaser in addition to such Contract Price.
- e) The Purchaser shall pay invoices submitted by the Service Provider for Services provided in accordance with this Contract within 30 days of receipt by the Purchaser of such invoice. The Purchaser shall pay such invoices by BACS (Bank Automated Clearing System).
- f) In the event of the Purchaser failing to comply with Clause e), the Service Provider shall be entitled to charge interest on the outstanding amount owed by the Purchaser at a rate of 2% above the base rate of the Bank of England from time to time from the due date for payment to the date of actual payment.

## 6. INTELLECTUAL PROPERTY

- a) All intellectual property rights in the names and logos belonging to each of the parties remain within the ownership of that party. Nothing contained in this Agreement shall give either party any licence to use or right,

title or interest in or to the Intellectual Property Rights in the Trademarks, Names or Devices of the other party save as expressly granted in this Agreement.

- b) Nothing in this Agreement shall be deemed to assign or otherwise transfer any Intellectual Property owned by the Service provider to the Purchaser.
- c) Any information provided to the Service Provider by the Purchaser remains the intellectual property of the Purchaser, this includes any content, templates and data files.
- d) The online services platform and all of it's code, functionality, database and layout remains the intellectual property of the Service Provider.

## 7. CONFIDENTIALITY

- a) Each Party acknowledges that certain information ("Confidential Information") provided for the purposes of this Agreement may be considered confidential, proprietary or trade secret information.
- b) During the Term and after termination or expiry of this agreement for any reason the Receiving Party:
  - i) Shall not use Confidential Information for a purpose other than the performance of its obligations under this Agreement;
  - ii) Shall not disclose Confidential Information to any person except with the prior written consent of the Disclosing Party; and
  - iii) Shall make every effort to prevent the use or disclosure of

Confidential Information.

party which supplied it.

c) During the Term the Receiving Party may disclose Confidential Information to any of its members, directors, other officers, or employees (a "Recipient") to the extent that disclosure is reasonably necessary for the purposes of this Agreement.

d) Before disclosure of Confidential Information to a Recipient, the Receiving Party shall ensure that such Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.

e) Clauses b) to d) do not apply to Confidential Information which:

i) is at the date of this Agreement or becomes at any time after that date publicly known other than by the Receiving Party's or Recipient's breach of this Agreement;

ii) can be shown by the Receiving Party to the Disclosing Party's reasonable satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party;

iii) is or becomes available to the Receiving Party otherwise than pursuant to this Agreement and free of any restrictions as to its use or disclosure;

iv) is required to be disclosed by law.

v) On expiry or termination of the Agreement for whatever reason Confidential Information and any records or copies of the same in whatever form must on request by either party be returned to the

## 8. DATA PROTECTION / INFORMATION SECURITY

a) In respect of this Contract, each party shall comply with the Data Protection Act 1998 ("**the 1998 Act**"). In particular, where a party is acting as the data processor of the other party ("**Data Controller**"), the processing party agrees to comply with the obligations placed on the Data Controller by the seventh data protection principle ("**the Seventh Principle**") set out in the 1998 Act, namely:

i) To maintain technical and organisational security measures sufficient to comply at least with the obligations imposed on the Data Controller by the Seventh Principle;

ii) only to process personal data (as defined in the 1998 Act) for and on behalf of the Data Controller, in accordance with the instructions of the Data Controller and for purposes of fulfilling the processing party's obligations to the Data Controller and to ensure the Data Controller's compliance with the 1998 Act; and

iii) to allow the Data Controller to audit the processing party's compliance with the requirements of this Clause 8 on reasonable notice and/or to provide the Data Controller with evidence of its compliance with the obligations set out in this Clause 8

- b) The parties agree to use all reasonable efforts to assist each other to comply with the 1998 Act. For the avoidance of doubt, this includes each party providing the other party with reasonable assistance in complying with subject access requests served under section 7 of the 1998 Act and consulting with the other party, as appropriate, prior to the disclosure of any personal data (as defined in the 1998 Act) created in connection with this Contract in relation to such requests.
  - c) The Service Provider where necessary to access systems and data maintained by the Purchaser within its networks or facilities shall comply with access control, acceptable usage and information security policies as may be issued by the Purchaser.
  - d) The Service Provider shall take the necessary steps to ensure that all the staff, officers, representatives or advisers used in provision of the obligations of this contract receive sufficient training and awareness of their duties relevant to Principle 7 of the Data Protection Act
  - e) The Service Provider shall report any breaches, weaknesses or near misses in relation to this Clause 8 relevant to the obligations set out in this contract to The Purchaser within a reasonable time and shall inform The Purchaser of the steps to be taken to remedy remediation findings so as to reasonably prevent such reoccurrence.
  - f) The Service Provider will provide a named contact to The Purchaser for the purpose of communicating all related Data Protection and Information Security matters.
  - g) The Service Provider will only ask for sanitised data for the duration of the development and testing of the platform. A date will be nominated and agreed by both parties when the live data can be securely transmitted and added to the platform.
- 9. LIABILITY**
- a) The Service Provider will not be held responsible for any costs incurred, loss of earnings or compensation due to the services carried out in the project agreement.
  - b) The Service Provider will be not held liable for failure, delay or defect in the work if caused by the supply or specification of unsuitable, faulty or substandard material by the customer or delay by the customer, providing input material, or processing instructions to the Service Provider.
  - c) Any liability described in this contract is to be applied to any third party that the Service Provider may use to complete any work specified in the project agreement.
- 10. FORCE MAJEURE**
- a) The Service Provider shall not be liable for failure to comply with these Conditions owing to any act or event beyond its control including but not limited to natural disasters, Acts of God, riots, civil commotion, strikes, shortage of supplies, lock-outs, industrial action, war, disease or fire. The Purchaser may terminate the Contract in the event that any such act or event prevents the Service Provider from performing such Contract for more than 20 consecutive days.

## 11. NOTICES

- a) Any notice or other communication given under this Agreement shall be in writing, in the English language and shall be sent by first class mail to the address set out on page 2 of this document as revised by notice to the other party from time to time.
- b) Any notice sent by first class mail shall be deemed to have been given on the third business day from and including the date of posting.

## 12. TERMINATION

- a) Unless otherwise agreed in writing between the parties or provided in this Agreement, it shall terminate on the expiry of the Term or if earlier on the expiration of a notice served by either party under this clause.
- b) The Purchaser shall, at any time, be entitled to terminate this Agreement forthwith on written notice:
  - i) If the Service Provider makes a substantial change in its policy, marketing or trading activities to such an extent that the Purchaser reasonably considers that a continuing relationship between the Purchaser and the Service Provider would be contrary to the objects of the Purchaser. In these circumstances the Service Provider will undertake all possible processes to hand over the account details and ownership of the relationship for the supplier of the hosting services to the Purchaser and assist in any way possible to ease the transfer.
  - ii) If the Service Provider does anything that in the reasonable opinion of the Purchaser brings or

is likely to bring the name or reputation of the Purchaser into disrepute.

- iii) The Service Provider has materially breached any of other the terms of this Agreement or has taken any steps which would or might invalidate the Purchaser registration as proprietor of the Purchasers Trademarks and after written notice has been given by the Purchaser to the Service Provider containing particulars of such breach and steps required for it to be remedied the matter has not been remedied to the reasonable satisfaction of the Purchaser within 30 days of such notice.
- iv) If the Service Provider shall have a receiver appointed in respect of the whole or substantially the whole of its assets or if a resolution is passed for the winding up of the Service Provider otherwise than for the purpose of reconstruction or amalgamation where a resultant company (if a different legal entity) undertakes to observe the terms of this Agreement and is a company to which or to the shareholding of which the Purchaser cannot reasonably object.
- v) The Service Provider agree that if they go into receivership, or become aware that this is likely, then they will undertake all possible processes to hand over the account details and ownership of the relationship for the supplier of the hosting services to the Purchaser and assist in any way possible to ease the transfer.
- c) The Service Provider shall at any time be entitled to terminate this

Agreement:

- i) Immediately on written notice if the Purchaser does anything that, in the reasonable opinion of the Service Provider, brings or is likely to bring the Service Provider into disrepute; or
- ii) If the Purchaser has materially breached any other of the terms of this Agreement or has taken any steps which would or might invalidate the registration of the Service Provider as proprietor of the Service Providers' Trademarks and, after written notice has been given by the Service Provider to the Purchaser containing particulars of such breach and steps required for it to be remedied, the matter has not been remedied to the reasonable satisfaction of the Service Provider within 30 days of such notice.

### **13. DISPUTE RESOLUTION**

- a) The parties will attempt to settle any disputes arising out of this Agreement between the Authorised Office and the Contract Manager in good faith and in a timely manner. If the Authorised Officer and the Contract Manager are unable to resolve the dispute in a timely manner, the dispute will be escalated to Director level within both parties to resolve. If parties fail to resolve the dispute within 21 days of the dispute being escalated then either Party may refer the dispute to mediation in accordance with the procedures of the Centre for Effective Dispute Resolution (CEDR). Both Parties agree to co-operate fully with such mediation, provided such assistance as is necessary to enable the mediator to discharge his duties and to bear equally between them the fees

and expenses of the mediator. Nothing in this clause shall prevent either Party from seeking injunctive relief or any other discretionary remedies of the court at any time.

### **14. REVIEWS**

- a) The Purchaser shall attend formal, minuted review meetings (each such meeting being a "**Review**"), as reasonably agreed by both parties, to discuss the levels of satisfaction and support requirements in respect of the Services provided under the Contract and to agree any necessary action to address areas of dissatisfaction.
- b) Such Reviews shall be attended by duly authorised and sufficiently senior employees of both the Purchaser and the Service Provider together with any other relevant attendees.

### **15. VARIATION**

- a) No variation to this Contract shall be effective unless made in writing and signed on behalf of both parties.

### **16. ASSIGNMENT AND SUB-CONTRACTING**

- a) The Service Provider reserves the right to sub-contract any or all of its rights and obligations to any third party supplier.
- b) The Service Provider without the consent of the customer assign the benefit and burden of its rights and obligations to any third party supplier. No notice of such assignments need to be given to the customer.

### **17. RELATIONSHIP BETWEEN THE PARTIES**

- a) The Purchaser and the Service Provider acknowledge that nothing in this Contract shall render the Service Provider an employee, agent or officer

of the Purchaser, and the Service Provider shall not hold itself out as such. Nothing contained in this Contract shall constitute a partnership or joint venture between the Purchaser and the Service Provider.

iv) Any unplanned or emergency maintenance is covered in our Service Level Agreement (SLA)

## **18. CONTRACT MANAGER**

- a) The Service Provider shall nominate an employee or officer from time to time to be the Contract Manager who shall be a suitably qualified and senior member of the Service Provider's staff.

## **19. AUTHORISED OFFICER**

- a) The Purchaser shall nominate an employee or officer from time to time to be the Authorised Officer (such nomination to be notified to Service Provider in writing without delay) and the Authorised Officer will be empowered to act on behalf of the Purchaser under this Contract.

## **20. UPDATES, MAINTENANCE AND PATCHES**

- a) The online services platform requires constant maintenance and therefore:
  - i) The Service Provider will notify the Purchaser of any planned maintenance at least one week before commencement.
  - ii) The Service Provider will not hold the Purchaser liable for any costs incurred by maintenance updates.
  - iii) All updates and maintenance are at the discretion of the Service Provider and do not need to be agreed with the Purchaser, however a suitable time will be agreed with the Purchaser for the updates to take place in order to minimise disruption.

## **21. DOMAIN NAME REGISTRATION / TRANSFER**

- a) All domain names registered with N2 are registered for a minimum of 2 years.
- b) The prices provided to you include administration and handling fees
- c) We will contact you 30 days prior to your renewal date to request permission for the renewal for a further 2 years.
- d) If you chose not to renew your domain name then the domain will not be renewed and will expire.
- e) If you would like to transfer your domain to another provider we will require written notice from an authorised contact. We will unlock the or change IPS tags within 7 working days. This will incur an administration charge of £25 + VAT.