Terms and Conditions (“these conditions”)

Interpretation

The definitions and rules of interpretation apply to acceptance of the Services provided by Reliaweb.

1.1 Definitions:

Acceptance: the acceptance or deemed acceptance of the Site by the Customer.

Acceptance Tests: the tests to be carried out on the Site as agreed between the Customer and Reliaweb.

Applicable Laws: To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom.

To the extent EU GDPR applies, the law of the European Union or any member state of the European Union to which Reliaweb is subject.

Applicable Data Protection Laws:

To the extent the UK GDPR applies, the law of the United Kingdom or of a part of the United Kingdom which relates to the protection of personal data.

To the extent the EU GDPR applies, the law of the European Union or any member state of the European Union to which Reliaweb is subject, which relates to the protection of personal data.

Business Day: a day, other than a Saturday or Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Charges: the charges in respect of the Services set out in Schedule 5.

Confidential Information: all information, whether technical or commercial (including all specifications, drawings and designs, disclosed in writing, on disc, orally or by inspection of documents or during discussions between the parties), where the information is:

identified as confidential at the time of disclosure; or

ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures: as defined in the Data Protection Legislation.

Customer Personal Data: any personal data which Reliaweb processes in connection with these conditions, in the capacity of a processor on behalf of the Customer.

Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

Effective Date: The date that the Services commence.

EU GDPR: the General Data Protection Regulation (*(EU) 2016/679*).

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Materials: the content provided to Reliaweb by the Customer from time to time for incorporation in the Site.

Non-Reliaweb Defects: those defects described in 4.4.

Project: the provision by Reliaweb of the Services as set out in these conditions.

Project Plan: the timetable within which Reliaweb will implement the Project as set out in Schedule 1.

Purpose: the purposes for which the Customer Personal Data is processed, as set out in 12**.**

Supplier Personal Data: any personal data which Reliaweb processes in connection with this a, in the capacity of a controller.

Server: a computer server administered by Reliaweb as more particularly defined in Schedule 3.

Services: the design, development and hosting services to be provided pursuant to these conditions as set out in Schedule 4.

Site: the website to be hosted by Reliaweb pursuant to these conditions.

Site Software: the software for the Site commissioned by the Customer as specified in Schedule 2.

Site Specification: the specification for the Site set out in Schedule 2.

Third Party Products: those third-party software products set out in Schedule 2.

UK GDPR: has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

Visitor: a visitor to the Site.

Vulnerability: a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be interpreted accordingly.

1.2 Clause and Schedule headings do not affect the interpretation of these conditions.

1.3 References to clauses and Schedules are (unless otherwise provided) references to the clauses and Schedules of these conditions.

1.4 In the event and to the extent only of any conflict between the clauses and the Schedules, the clauses shall prevail.

1.5 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

1.6 A reference to legislation or a legislative provision is a reference to it as it is in force as at the date of these conditions.

1.7 A reference to legislation or a legislative provision shall include all subordinate legislation made as at the date of these conditions under that statute or statutory provision.

1.8 Any words following the conditions **including**, **include**, **in particular**, **for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words, preceding these conditions.

1.9 References to **content** include any kind of text, information, image, or audio or video material which can be incorporated in a website for access by a Visitor to that website.

1.10 A reference to **writing** or **written** includes email but excludes fax.

2. Application of these conditions

2.1 These conditions shall:

(a) apply to the Services provided by Reliaweb; and

(b) by using the Services, the Customer accepts these conditions.

2.2 No addition to, variation of, exclusion or attempted exclusion of any of these conditions shall be binding on Reliaweb unless agreed in writing and signed by a duly authorised representative of Reliaweb.

3. Scope of the project

3.1 Reliaweb shall:

(a) design, develop and deliver the Site in accordance with the Project Plan; and

(b) provide the Services and host the Site from the Server.

3.2 The Customer's purchase constitutes an offer by the Customer to purchase the Services specified in it on these conditions. Accordingly, the execution and return of the acknowledgement copy of the quote form by Reliaweb, or Reliaweb's commencement or execution of work pursuant to the approved quotation, shall establish a contract for the supply and purchase of those Services on these conditions.

4. Customer responsibilities

4.1 The Customer warrants to Reliaweb that it has full power and authority to enter into and perform the contract.

4.2 The Customer acknowledges that Reliaweb's ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of the design specifications provided by the Customer and any other information and data the Customer provides to Reliaweb. Accordingly, the Customer shall:

(a) provide Reliaweb with access to, and use of, all information, data and documentation reasonably required by Reliaweb for the performance by Reliaweb of its obligations under these conditions.

4.3 The Customer shall be responsible for the accuracy and completeness of the Materials on the Site in accordance with clause 11 Site Content.

4.4 If the Reliaweb’s performance of its obligations is prevented or delayed by any act or omission of the Customer or the Customer's agents, subcontractors or employees, the Customer shall in all circumstances be liable to pay to Reliaweb on demand all

reasonable costs, charges or losses sustained or incurred by it, subject to Reliaweb confirming such costs, charges and losses to the Customer in writing. Such losses shall include, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere.

5. Development and acceptance of site

5.1 Once Reliaweb has completed the design and development of the Site in accordance with the Project Plan, Reliaweb shall run the Acceptance Tests. The procedure set out in this clause 5 shall be repeated in respect of the Project Plan and any further development works agreed by the parties from time to time.

5.2 The form and details of the Acceptance Tests shall be agreed between the Customer and Reliaweb. Acceptance of the Site shall occur when the Site has passed the Acceptance Tests. Reliaweb shall notify the Customer when the tests have been passed and provide the results of the Acceptance Tests to the Customer in writing.

5.3 If any failure to pass the Acceptance Tests results from a defect which is caused by an act or omission of the Customer, or by one of the Customer's sub-contractors or agents for whom Reliaweb has no responsibility (**Non-Reliaweb Defect**), the Site shall be deemed to have passed the Acceptance Tests notwithstanding such Non-Reliaweb Defect. Reliaweb shall provide assistance reasonably requested by the Customer in remedying any Non-Reliaweb Defect by supplying additional services or products. The Customer shall pay Reliaweb in full for all such additional services and products at Reliaweb's then current fees and prices.

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

(a) the Customer uses any part of the Site for any purposes or to provide any services to third parties other than for test purposes; or

(b) the Customer unreasonably delays the start of the relevant Acceptance Tests or any retests for a period of seven working days from the date on which Reliaweb is ready to commence running such Acceptance Tests or retests.

6. Third party products

The Third-Party Products shall be supplied in accordance with the relevant licensor's standard terms. The Customer is responsible for all on-going product licensing once the Site is built unless the Customer continues to purchase one of Reliaweb’s hosting packages.

7. Charges and payment

7.1 Reliaweb shall issue a monthly invoice in respect of the following Charges: -

(a) for the design, development and maintenance of the Site; and/or

(b) the hosting services.

and the Customer shall pay to Reliaweb the Charges set out in such Reliaweb's invoice within 14 days of the date of Reliaweb's invoice.

7.2 If the Customer fails to make any payment due to Reliaweb under these conditions by the due date for payment, then, without limiting Reliaweb's remedies under 13, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

7.3 Time for payment shall be of the essence of the agreement between the parties.

8. Reliaweb's obligations

8.1 Reliaweb warrants to the Customer that it has full power and authority to enter into and perform the contract.

8.2 Reliaweb shall perform the Services with reasonable care and skill.

8.3 Reliaweb warrants that the Site will perform substantially in accordance with the Site Specification for a period of three months from Acceptance. If the Site does not so perform, Reliaweb shall, for no additional charge, carry out any work necessary in order to ensure that the Site substantially complies with the Site Specification.

8.4 The warranty set out in 8.3 shall not apply to the extent that any failure of the Site to perform substantially in accordance with the Site Specification is caused by any Materials.

8.5 These conditions set out the full extent of Reliaweb's obligations and liabilities in respect of the supply of the Services. These conditions, warranties or other terms concerning the Services which might otherwise be implied into these conditions or any collateral contract (whether by statute or otherwise) are hereby expressly excluded.

8.6 Reliaweb:

(a) does not warrant that:

(i) the Customer's use of the Services or the Site will be uninterrupted or error-free; or

(ii) the Services or the Site will be free from Vulnerabilities.

9. Limitation of liability

9.1 Nothing in these conditions limit any liability which cannot legally be limited including but Limitation of liability for:

(a) death or personal injury caused by the Host's negligence;

(b) fraud or fraudulent misrepresentation; and

(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

9.2 Subject to 9.1:

(a) Reliaweb shall have no liability for any:

(i) loss of profits;

(ii) loss of business;

(iii) wasted expenditure;

(iv) depletion of goodwill or similar losses;

(v) loss or corruption of data or information; and

(vi) any special, indirect or consequential loss, costs, damages, charges or expenses.

(b) Reliaweb shall not be responsible for any of the products / services or information which is displayed by the Customer on the Site. For the avoidance of doubt, the Customer has sole responsibility for the products and services which are uploaded/displayed on the Site.

(c) Reliaweb shall not be responsible for Customers e-commerce websites or products.

(d) Reliaweb shall not be responsible for any liabilities due to faulty products, such responsibility lies solely with the Customer.

(e) Whilst Reliaweb does use recognised GDPR privacy policy plugins, it is not qualified or able to advise on the suitability of such plug-ins and therefore the Customers should seek qualified legal support if necessary to ensure its compliance with Applicable Data Protection Laws.

(f) The Site created by Reliaweb may use Third Party Products. The ongoing updates and licensing of these Third Party Products will be the responsibility of the Customer unless specifically otherwise, for example, they may sometimes be included in Reliaweb's monthly maintenance and hosting packages,

(g) Reliaweb's total aggregate liability to the Customer, in respect of all breaches of duty occurring within any contract year shall not exceed the value of the contract.

(h) In 9.2(g): A contract year means a 12-month period commencing on the Effective Date or any anniversary of it.

9.3 References to liability in this condition 9 include every kind of liability arising under or in connection with these conditions including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

9.4 Nothing in these conditions exclude the liability of the Customer for any breach, infringement or misappropriation of Reliaweb's Intellectual Property Rights.

10. **Intellectual property rights**

10.1 All Intellectual Property Rights in the Site (including in the content of the Site and the Site Software), but excluding the Materials, arising in connection with the provision of the Services and these conditions shall be the property of Reliaweb, and Reliaweb hereby grants the Customer a non-exclusive licence of such Intellectual Property Rights for the purpose of operating the Site.

10.2 The Customer shall indemnify Reliaweb against all damages, losses and expenses arising as a result of any action or claim that the Materials infringe the Intellectual Property Rights of a third party.

10.3 Reliaweb shall indemnify the Customer against all damages, losses and expenses arising as a result of any action or claim that the Site infringes any Intellectual Property Rights of a third party in the UK, other than infringements referred to in 10.2.

10.4 The indemnities in 10.2 and 10.3 are subject to the following conditions:

(a) the indemnified party promptly notifies the indemnifier in writing of the claim;

(b) the indemnified party makes no admissions or settlements without the indemnifier's prior written consent;

(c) the indemnified party gives the indemnifier all information and assistance that the indemnifier may reasonably require; and

(d) the indemnified party allows the indemnifier complete control over the litigation and settlement of any action or claim.

10.5 The indemnities in 10.2 and 10.3 may not be invoked to the extent that the action or claim arises out of the indemnifier's compliance with any designs, specifications or instructions of the indemnified party.

11. Site content

11.1 Reliaweb shall update the site with Materials provided from time to time by the Customer. The Customer shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred [or acts of terrorism], menacing, blasphemous or in breach of any third party Intellectual Property Rights) (**Inappropriate Content**).

11.2 Reliaweb shall include only Materials on the Site. The Customer acknowledges that Reliaweb has no control over any content placed on the Site by Visitors and does not purport to monitor the content of the Site. Reliaweb reserves the right to remove content from the Site where it reasonably suspects such content is Inappropriate Content. Reliaweb shall notify the Customer promptly if it becomes aware of any allegation that any content on the Site may be Inappropriate Content.

11.3 The Customer shall indemnify Reliaweb against all damages, losses and expenses arising as a result of any action or claim that the Materials constitute Inappropriate Content.

11.4 Reliaweb may include the statement "Designed by Reliaweb Ltd.” on the home page of the Site in a form to be agreed.

12. Data protection

12.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

12.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Reliaweb is the Processor. Schedule 6 sets out the scope, nature and purpose of processing by Reliaweb, the duration of the processing and the types of Personal Data and categories of Data Subject.

12.3 Without prejudice to the generality of clause 12.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful

transfer of the Personal Data to the Reliaweb and/or lawful collection of the Personal Data by Reliaweb on behalf of the Customer for the duration and purposes of the provision of the Services and these conditions.

12.4 Without prejudice to the generality of clause 12.1, Reliaweb shall, in relation to any Personal Data processed in connection with the performance by Reliaweb of its obligations when providing the Services and these conditions:

(a) process that Personal Data only on the documented written instructions of the Customer. Where Reliaweb is relying on Domestic Law as the basis for processing Personal Data, Reliaweb shall promptly notify the Customer of this before performing the processing required by the Data Protection Legislation;

(b) Either party may, at any time on not less than 30 (thirty) days' notice, revise this clause 12 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation.

13. Term, termination and survival

13.1 Without affecting any other right or remedy available to it, either party may terminate the Services by giving 30 days' written notice to the other party if:

(a) the other party fails to pay any amount due under these conditions on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;

(b) the other party commits a material breach of any term of these conditions and (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

(c) the other party repeatedly breaches any of these conditions in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give comply with these conditions;

(d) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay their debts or [(being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

(e) the other party commences negotiations with all or any class of any of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

(f) the other party applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;

(g) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company, limited liability partnership or partnership);

(h) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the other party (being a company, partnership or limited liability partnership);

(i) the holder of a qualifying floating charge over the assets of that other party (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

(j) a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;

(k) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

(l) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in 13.2(d) to 13.2(k) (inclusive);

(m) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

(n) the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to these conditions in jeopardy;

(o) there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010); or

(p) any warranty given by the other party in clause 8 is found to be untrue or misleading.

13.2 For the purposes of clause 13.1(b), a **material breach** means:

(a) a breach of any of the obligations set out in clauses 4, 7,10, 12, 13 and 16 ; or

(b) a breach that has a serious effect on the benefit the terminating party would otherwise derive from these conditions.

13.3 On termination of the Services by Reliaweb under 13.2, all licences granted by Reliaweb under these conditions shall terminate immediately.

13.4 On expiry or termination of these conditions otherwise than on termination by Reliaweb under 13.2, Reliaweb shall promptly return all Materials to the Customer and shall provide to the Customer an electronic copy of the Site (including all content on the Site). Reliaweb shall provide such assistance as is reasonably requested by the Customer in transferring the hosting of the Site to the Customer or another service provider, subject to the payment of Reliaweb's expenses reasonably incurred.

13.5 Any provision of these conditions that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these conditions shall remain in full force and effect.

14. Force majeure

Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for 30 days, the party not affected may terminate these conditions by giving not less than 30 days' written notice to the affected party.

15. Confidentiality

15.1 Each party undertakes that it shall not at any time during the contract, and for a period of two years after termination or expiry of the contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or Release of the other party as permitted by 15.2.

15.2 Each party may disclose the other party's confidential information:

(a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with these conditions. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 15; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

15.3 No party may use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these conditions.

16. **Notices**

16.1 Any notice given to a party under or in connection with the Services shall be in writing and shall be:

(a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

(b) sent by email to primary Customer contact email address, and the primary contact email address of Reliaweb.

16.2 Any notice shall be deemed to have been received:

(a) if delivered by hand, at the time the notice is left at the proper address;

(b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

(c) if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

16.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

17. **Publicity**

17.1 The Customer agrees for the Site to be used in Reliaweb's website / social media portfolio.

17.2 All media releases, public announcements and public disclosures by either party relating to these conditions 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.**Assignment and other dealings**

These conditions are personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under these conditions.

18. **Entire agreement**

18.1 These conditions constitute the entire agreement between the parties and supersede and extinguish all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.

18.2 Each party acknowledges that by accepting Reliaweb's quote, it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the quote.

18.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement made by either party.

19. **Third party rights**

These conditions do not give rise to rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any these conditions.

20. **Waiver**

20.1 A waiver of any right or remedy under these conditions or by law is only effective if given in writing.

20.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

21. **Rights and remedies**

Except as expressly provided in these conditions, the rights and remedies provided under these conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

22. **Severance**

22.1 If any provision or part-provision of these conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these conditions.

22.2 If any provision or part-provision of these conditions is deemed deleted under 23.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

23. **Governing law**

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

24. **Jurisdiction**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these conditions.

Schedule 1: Project Plan

Schedule 2: Site Software and Site Specification

Schedule 3: Server

Schedule 4: Services

Schedule 5: Charges

Schedule 6: Data processing