



## TERMS AND CONDITIONS - PLATFORM 81 LIMITED

### 1 Definitions and interpretation

1.1 In these Conditions the following definitions apply:

#### **Business Day**

means a day other than a Saturday, Sunday or bank or public holiday in England;

#### **Conditions**

means P81's terms and conditions as set out in this document;

#### **Confidential Information**

means any commercial, financial or technical information, information relating to the Services, the proposal, project plans, business operations, clients, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Contract;

#### **Contract**

means the agreement between P81 and the Client for the supply of Services incorporating P81's proposal (as referred to in the Contract Details), these Conditions and the attached Contract Details;

#### **Contract Details**

means the attached document signed by both parties specifying details of the Services and other key information relating to the Services;

#### **Client**

means the person who purchases the Services from P81 and whose details are set out in the Contract Details;

#### **Client Information**

means all documents, content, fonts, assets, images, media and other information in whatever format provided by the Client to P81 for the purposes of performing the Services;

#### **Data Protection Laws**

means:

- (a) 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;
- (b) to the extent the EU GDPR applies, the law of the law of the European Union or any member state of the European Union to which P81 is subject, which relates to the protection of personal data;

#### **Deliverables**

means any reports, documents or other deliverables to be provided by P81 as part of the Services;

#### **EU GDPR**

means the General Data Protection Regulation ((EU) 2016/679), as it has effect in EU law;

#### **Extended Term**

as defined in the Contract Details, if applicable;

#### **Fees**

has the meaning set out in clause 6.1;

#### **Force Majeure**

means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment, or telecommunications networks or related services, or material required for performance of the Contract, strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving P81's or its workforce, but excluding the Client's inability to pay or circumstances resulting in the Client's inability to pay;

#### **GDPR**

means the General Data Protection Regulation, Regulation (EU) 2016/679;

#### **Initial Term**

means the initial term set out in the Contract Details;

#### **Intellectual**

#### **Property**

#### **Rights**

means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future;
- (e) to which the relevant party is or may be entitled, and
- (f) in whichever part of the world existing;

#### **P81**

means Platform 81 Limited (registered company number 06436028);

#### **P81 Personnel**

means all employees, officers, staff, other workers, agents and consultants of P81 and any of its sub-contractors who are engaged in the performance of the Services from time to time;

**Services**

means the services set out in the Contract Details which are to be performed by P81 for the Client;

**Term**

means the Initial Term and each Extended Term set out in the Contract Details, or such other term as is set out in the Contract Details;

**UK GDPR**

has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018;

**VAT**

means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Services.

1.2 In these Conditions, unless the context requires otherwise:

1.2.1 any clause, schedule or other headings in these Conditions is included for convenience only and will have no effect on the interpretation of the Conditions;

1.2.2 a reference to a 'party' includes that party's personal representatives, successors and permitted assigns;

1.2.3 a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;

1.2.4 a reference to a gender includes each other gender;

1.2.5 words in the singular include the plural and vice versa;

1.2.6 any words that follow 'include', 'includes' or 'including' or any similar words and expressions will be construed as illustrative only and will not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.7 a reference to 'writing' or 'written' includes emails but not fax unless otherwise stated;

1.2.8 a reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time and includes all subordinate legislation made from time to time under that legislation.

## 2 Application of these Conditions

2.1 These Conditions apply to and form part of the Contract between P81 and the Client.

2.2 No terms or conditions endorsed on, delivered with, or contained in the Client's purchase order or conditions, confirmation of order, specification or other document will form part of the Contract except to the extent that P81 otherwise agrees in writing.

2.3 No variation of these Conditions or to the Contract Details will be binding unless agreed in writing and executed by a duly authorised signatory on behalf of P81.

2.4 Upon request, P81 may issue a quotation to the Client in the form of a proposal. The proposal is a quote and not an offer to supply any services and is not contractually binding until referenced in a Contract Details form signed on behalf of both parties.

2.5 If the Client wishes to purchase services on the basis of the proposal, it will confirm this to P81, following which the proposal will be referenced in and form part of the "Contract Details". The Client's signature of the Contract Details confirms an offer by the Client to purchase Services from P81 subject to these Conditions.

2.6 A contract will not be accepted, and no binding obligation to supply any Services will arise, until both parties have signed the Contract Details. The Client warrants that the Contract has been executed by a duly authorised representative of the Client.

2.7 Marketing and other promotional material relating to the Services are illustrative only and do not form part of the Contract.

## 3 Performance of the Services

3.1 The Services will be performed for the Term set out in the Contract Details and any Extended Term. One-off services will be performed as set out in the Contract Details or as otherwise agreed between the parties in writing. Any times or timescales are estimates only and time of performance of the Services is not of the essence.

3.2 P81 will use its reasonable endeavours to perform the Services as set out in the Contract Details.

3.3 Any stated or agreed timescale is reliant upon the Client providing all required Client Information within the time set out in the Contract Details, or otherwise agreed with P81.

3.4 The Services will be deemed performed on completion of the performance of the Services as specified in the Contract Details.

3.5 Where the Client requires changes to the Services or requests additional Services to those set out in the Contract Details, the Client will notify P81 of the changes required including any relevant timescales and P81 will notify the Client of related additional fees. Acceptance of variations to the Contract Details is at the discretion of P81 and all changes must be agreed in writing by P81.

3.6 P81 will use reasonable care and skill in performing the Services.

3.7 If the Client supplies text, artwork, images or other Client Information to P81 to be published, printed or otherwise

incorporated into the Services, P81 is not obliged to edit, check or confirm the accuracy of the same in any way whatsoever, and the end product/display of such text, artwork and images will be entirely at the Client's own risk.

3.8 The Client will indemnify P81 in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by P81 arising out of or in connection with any claim brought against P81, its agents, subcontractors or consultants for actual or alleged infringement of a third party's rights (including Intellectual Property Rights), to the extent that the infringement or alleged infringement results from the receipt or use in the performance of the Contract of the Client Information.

3.9 Within the period of 30 days following the final invoice for the Services, P81 will, at its option, remedy, re-perform or refund any Services that do not comply with clause 3.6, provided that:

3.9.1 the Client serves a written notice on P81 which specifies that some or all of the Services do not comply with clause 3.6 and identifies in sufficient detail the nature and extent of the defects and such written notice must be served with 7 days of completion of the allegedly defective services; and

3.9.2 the Client gives P81 a reasonable opportunity to examine the claim of the defective Services.

3.10 Except as set out in this clause 3:

3.10.1 P81 gives no warranties and makes no representations in relation to the Services; and

3.10.2 will have no liability for the Services' failure to comply with clause 3.6; and

3.10.3 all warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982), whether express or implied by statute, common law or otherwise are excluded to the extent permitted by law.

3.11 If P81's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees (**Client Default**), then, without prejudice to any other right or remedy it may have:

3.11.1 P81 will have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays P81's performance of any of its obligations;

3.11.2 P81 will not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from P81's failure or delay to perform any of its obligations as set out in this clause 3.11;

3.11.3 the Client will reimburse P81 on written demand for any costs or losses sustained or incurred by P81 arising directly or indirectly from the Client Default.

## 4 Services

### Website

4.1 P81 may recommend various updates to the Client's website. Unless the updates fall within the scope of the Services and/or constitute Deliverables, P81 will only perform such updates with the Client's prior written agreement and once any relevant fees are approved and paid by the Client. All website updates are to be performed by P81 Personnel.

4.2 If the Client requests to pause a website build and P81 agrees, P81 may charge additional costs to re-start the project given that software and technologies may have moved on since original implementation necessitating additional work to bring these aspects up to date.

4.3 If the Client is not receiving website support and maintenance services from P81 as part of the Services:

4.3.1 P81 is not responsible and has no liability relating to the security of the Client's website;

4.3.2 wordpress and plugins will not be updated by P81 which the Client acknowledges could present a security risk.

4.4 Acceptance of any website developed by P81 for the Client as part of the Services will be deemed to have taken place upon the occurrence of any of the following events:

4.4.1 the Client using any part of the website for any revenue-earning purposes or to provide any services to third parties other than for test purposes; or

4.4.2 the Client unreasonably delaying the start of any acceptance tests or any retests for a period of 5 Business Days from the date on which P81 is ready to commence running such acceptance tests or retests.

4.5 If any failure to pass the acceptance tests results from a defect which is caused by an act or omission of the Client, or by one of the Client's sub-contractors or agents for whom P81 has no responsibility (**Non-P81 Defect**), the website will be deemed to have passed the acceptance tests notwithstanding such Non-P81 Defect. P81 will provide assistance reasonably requested by the Client in remedying any Non-P81 Defect by supplying additional services or products. The Client will pay P81 in full for all such additional services and products at P81's then current fees and prices.

### Digital Marketing

4.6 The Client acknowledges that the internet is neither owned nor controlled by any one entity, therefore, P81 can make no warranties in respect of the results that may be provided as a result of providing digital marketing services. P81 will work in good faith and use its reasonable endeavours to ensure that the Client's digital

marketing meets its requirements as per the Contract Details and that leads are generated as a result of the Services.

- 4.7 The Client will provide clear and timely briefings to P81 in respect of all digital marketing services required.
- 4.8 Where indicated in the Contract Details, P81 will provide a report taken directly from the applicable advertising account(s) demonstrating key metrics such as clicks, impressions and click-through rates.
- 4.9 P81 will use reasonable endeavours to ensure that all facts provided about the relevant advertising accounts are accurate.
- 4.10 All digital marketing campaigns will run for the length of time specified in the Contract Details and the Client is obliged to pay the associated Fees for the full term of the relevant Services.

#### **Social Media**

- 4.11 Where the Client has requested social media services it will enable P81 to make posts on the Client's behalf across the selected social media sites as specified in the Contract Details with the aim to influence the visibility and ranking of the Client's social media profile.
- 4.12 Where requested, the Client will provide P81 with any relevant business and industry content and/or information necessary for P81 to ensure posts are fully effective and accurate.
- 4.13 P81 reserves the right to amend the agreed content plan for social media services based on industry updates. The Client may request changes to the content plan with reasonable notice to P81, based on its company updates and industry news.

#### **Search Engine Optimisation/Pay Per Click**

- 4.14 The content, management and costs of SEO/PPC Services will be as set out in the Contract Details. Any opportunities for extra outreach spend will be agreed with the Client prior to P81 incurring such cost on behalf of the Client.
- 4.15 P81 may ask the Client to provide relevant content to assist the SEO/PPC campaign. Where such content is not supplied or signed off by the Client promptly or at all, it could adversely affect the success of the campaign.
- 4.16 P81 gives no guarantee that the Client will rank as number one on any search engine once the Services have been performed. There are many external factors beyond P81's control that may affect the Client's ranking on a search engine.
- 4.17 The Client acknowledges that SEO services may take up to 12 months to show positive results from the commencement date of the Services.
- 4.18 P81 is not responsible for the policies of third parties. The Client's website or content may be excluded or banned from the third-party resources and this will be outside of P81's control.

- 4.19 Third party resources are competitive in nature. Accordingly, P81 does not warrant the position of any PPC keyword, phrase or search term. PPC advertising may be subject to the individual PPC advertising network's policies. Each edit or change made to such policies may affect the Client's campaign and the Client acknowledges that this is outside P81's control. P81 will use reasonable endeavours to rectify any negative effects on the campaign arising from an edit or change to such policies.

- 4.20 A search engine or PPC advertising network may drop a listing for no apparent or predictable reason. If the listing does not reappear in the search engine or PPC advertising network within a reasonable period of time, P81 will re-submit the resources based on the current policies of the search engine or PPC advertising network.

- 4.21 Unless otherwise agreed in the Contract Details, P81 does not make any warranty or representations on the placement of the Client's advertising, its availability, or availability related to the funds in the Client's account with the search engine or PPC advertising network.

- 4.22 P81 will use reasonable endeavours to keep the Client informed of any changes to third party resources, industry practice or any other changes that P81 is made aware of which may impact the campaign and the provision of the Services.

- 4.23 P81 has no liability for any delay caused in the provision of or the expected results of the SEO services where the Client has failed to provide the Client Information, consents or other approvals required by P81 within the timescales set out in the Contract Details or otherwise agreed by the Client.

- 4.24 Where there is a delay in the performance of SEO Services or the Services are suspended, the Client agrees that P81 may adjust the timescales and work required to complete the Services, at P81's discretion. The Client acknowledges that such changes may be at an additional cost to the Client where the timescales or scope of services changes from that in the Contract Details.

#### **External Printing**

- 4.25 Any printing, fulfilment, mailing or third-party services that are provided via P81 as part of the Services, will require full proof checking and sign off by the Client of all artwork and content before being outsourced to the printer/supplier. P81 will not be responsible for any errors on printed items and cannot offer any refund due to such errors.

#### **Copywriting**

- 4.26 P81 will provide content in line with the information it has been given by the Client. It is the Client's responsibility to ensure the copy is suitable for the purpose and acceptable to go on the Client's website. The Client acknowledges that P81 may utilise artificial intelligence to generate copy.
- 4.27 P81 will use stock imagery, unless imagery is provided by the Client. There will be no additional costs for such imagery unless otherwise agreed with the Client prior to any purchases being made.

4.28	It is assumed that unless otherwise agreed, copy and images will be provided by the Client, although P81 will use reasonable endeavours to contribute to this as a natural part of the creative process. P81 will only use non-copyrighted images and content. P81 will have no responsibility for the Client using any images or content for any other purpose than as agreed in the Contract Details.	5.7	The Client will promptly inform P81 of any change in the Client's contact details for invoicing purposes and other communications with the Client.
5	<b>Client Obligations</b>	5.8	The Client will co-operate with P81 in all matters relating to the Services.
5.1	The Client acknowledges that P81's ability to provide the Services is dependent upon the full and timely co-operation of the Client (which the Client agrees to provide), as well as the accuracy and completeness of any information and data the Client provides to P81.	5.9	The Client acknowledges that P81 has no control over any content placed on the website by visitors and P81 does not purport to monitor the content of the website.
5.2	The Client warrants that it has provided (or will provide) P81 with all relevant, full and accurate information as to the Client's business, needs, relevant spend budgets and, where relevant, the login and access details for the social media accounts to be managed by P81.	6	<b>Fees</b>
5.3	The Client will provide all Client Information, consents and sign-offs required by P81 to perform the Services promptly and within any timescales agreed in the Contract Details or otherwise in writing with P81 and P81 will not be responsible for delays arising directly or indirectly from the Client's failure to do so. All such Client Information provided to P81 will be accurate, complete and not misleading. Any failure by the Client to provide Client Information will not in itself serve to pause or suspend the Contract and the Fees will remain payable even if P81 is prevented from providing the Services as a result of the Client's failure to provide Client Information.	6.1	The Fees for the Services are as set out in the Contract Details. Fees are exclusive of VAT (or equivalent sales tax). The Client will pay any applicable VAT to P81 on receipt of a VAT invoice.
5.4	Where the client is receiving Services relating to Paid Advertising Spend, the Client agrees to provide card payment details to P81 to setup and run the agreed Services on the Client's behalf. The Client will confirm the name, address and payment information to be used and ensure that P81 is updated within 24 hours if any of these details change. The Client retains full responsibility for ensuring that payments can be processed at the required times via the chosen payment method and P81 will not be liable for any resulting delay in the Services.	6.2	P81 reserves the right to charge a deposit amount for the Services and/or request an upfront payment, as set out in the Contract Details. The Client will pay any deposit amount or upfront payment as per the amount and timescales detailed in the Contract Details. P81 reserves the right to withhold commencing the Services until any such deposit or upfront payment have been received by P81 in full cleared funds.
5.5	The Client warrants that any Client Information provided to P81 does not infringe the Intellectual Property Rights of any third party. Such Client Information will be the Client's own property, or if owned by a third party, the Client will have the express consent of the third party to use its property as referenced by the Contract.	6.3	All website hosting, domain name and email account Fees are payable on a monthly basis as set out in the Contract Details unless otherwise agreed in writing.
5.6	Any Client Information provided to P81 to perform the Services or used by the Client on any website hosted by P81, will 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). The Client will indemnify P81 against all damages, losses and expenses arising as a result of any action or claim that the Client Information constitute inappropriate content as described in this clause 5.6.	6.4	P81 may charge additional Fees where the scope of the Services changes from that set out in the Contract Details, or the timescales change due to failure of the Client to perform its obligations under these Conditions. Any additional Fees will be agreed with the Client in advance and confirmed in writing by P81.
		6.5	P81 may increase the Fees at any time by giving the Client no less than 30 Business Days' notice in writing provided that the increase does not exceed 20% of the Fees in effect immediately prior to the increase.
		6.6	Notwithstanding clause 6.5, P81 may increase the Fees with immediate effect by written notice to the Client where there is an increase in the direct cost to P81 of supplying the relevant Services which exceeds 20% and which is due to any factor beyond the control of P81.
		6.7	Notwithstanding clause 6.5, P81 may increase the Fees on an annual basis with effect from each anniversary of the date of the Contract in line with the percentage increase in the Retail Prices Index in the preceding 12-month period, and the first such increase will take effect on the first anniversary of the date of the Contract and will be based on the latest available figure for the percentage increase in the Retail Prices Index.
		6.8	P81 will be entitled to charge the Client for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by P81 for the performance of the Services, and for the cost of any materials.

<b>7</b>	<b>Payment</b>		
7.1	P81 will invoice the Client for the Services as set out in the Contract Details, or where no time is specified, on a monthly basis. P81 may invoice for the Services by instalments if stated in the Contract Details.	9.2.1	loss of profit, loss of production, loss of contract, loss of use, loss or corruption of data, loss of opportunity, loss of business, loss of savings (whether actual or anticipated);
7.2	The Client will pay all invoices in full without deduction or set-off, in cleared funds and to the bank account nominated by P81.	9.2.2	harm to reputation or loss of goodwill; or
7.3	Unless otherwise stated in the Contract Details, all deposits or costs on account payable by the Client under these Conditions will be paid within 7 days of the date of each invoice.	9.2.3	consequential, indirect or special losses, incurred by the other party.
7.4	Unless otherwise stated in the Contract Details, all other invoices will be paid within 30 days of the date of each invoice.	9.3	Subject to clause 9.7, P81 will not be liable for any of the following (whether direct or indirect):
7.5	Time of payment is of the essence. Where sums due under these Conditions are not paid in full by the due date P81 may suspend performance of the Services until such date as all outstanding invoices have been settled in full cleared funds. In such instance, where the Client is receiving website hosting and/or email Services, access to such website or email accounts may be suspended. For the avoidance of doubt, any suspension of the Services shall not relieve the Client from its payment obligations under the Contract.	9.3.1	loss caused by the Client's use of any Deliverables for any purpose not contemplated by the Contract;
7.6	Without prejudice to any other right or remedy that it may have, if the Client fails to pay P81 any sum due under the Contract on the due date: the Client will 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 7.6 will accrue each day at 5% a year above the Bank of England's base rate from time to time, but at 5% a year for any period when that base rate is below 0% and P81 may suspend all or part of the Services until payment has been made in full.	9.3.2	delays caused by the Client's failure to provide timely and/or accurate Client Information, consents or approvals required by P81 to perform the Services;
		9.3.3	loss caused as a result of the suspension of the Services due to the Client failing to comply with its obligations under the Contract;
		9.3.4	loss caused as a result of the Client's website being compromised, hacked or otherwise accessed by unauthorised persons.
		9.4	P81 will not be liable for any delay in or failure of performance caused by:
		9.4.1	the Client's failure to: (i) provide P81 with adequate and accurate instructions for performance or otherwise relating to the Services (ii) provide accurate login details for the Client's media accounts (iii) approve content in a timely fashion (iv) provide information in a timely fashion required for performance of the Services;
		9.4.2	the suspension of the Services due to the Client failing to comply with its obligations under the Contract;
		9.4.3	a Force Majeure event.
<b>8</b>	<b>Indemnity and insurance</b>	9.5	Any loss caused by the failure of a third-party website hosting provider to host the Client's website will be the responsibility of that provider and P81 will not have any liability to the Client for any such failure.
8.1	The Client will indemnify, and keep indemnified, P81 from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by P81 as a result of or in connection with the Client's breach of any of the Client's obligations under the Contract, including in connection with any suspension and/or termination as a result of such breach.	9.6	In relation to hosting services, the Client acknowledges that the Client's website is hosted on infrastructure provided by a third party and any downtime is therefore outside of P81's control and the service is subject to the third party provider's service level agreement commitments and P81 will not be liable for any such downtime.
8.2	The Client will have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under these Conditions. On request, the Client will supply, so far as is reasonable, evidence of the maintenance of the insurance and all of its terms from time to time applicable. The Client will on request assign to P81 the benefit of such insurance.	9.7	Notwithstanding any other provision of the Contract, the liability of the parties will not be limited in any way in respect of the following:
<b>9</b>	<b>Limitation of liability</b>	9.7.1	death or personal injury caused by negligence;
9.1	Subject to clauses 9.2 - 9.7, each party's total liability in connection with the Contract will not exceed the sum of the Fees due to P81 as specified in the Contract Details.	9.7.2	fraud or fraudulent misrepresentation;
9.2	Subject to clause 9.7, neither party will be liable for any:		

9.7.3	any other losses which cannot be excluded or limited by applicable law;	11.2	Neither the Client nor P81 will make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority save that P81 may publicise the fact that it works as a service provider for the Client.
9.7.4	in connection with any indemnities given under the Contract; and		
9.7.5	any losses caused by wilful misconduct.		
9.8	P81 does not warrant that the Client's use of the Services or the website will be uninterrupted or error-free or that the Services or the website will be free from vulnerabilities or that the Services or the website will comply with any heightened cybersecurity requirements.	11.3	To the extent any Confidential Information is personal data (as defined in clause 12) such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with any of the provisions of clause 12.
<b>10</b>	<b>Intellectual Property</b>	11.4	Each party's obligations under this clause 11 will survive termination/expiry of the Contract.
10.1	Subject to the Client paying all invoices due in full cleared funds in accordance with these Conditions, all Intellectual Property Rights in the Deliverables will belong to the Client and the Client will own all Intellectual Property Rights in any website or content created for the Client during the performance of the Services.	<b>12</b>	<b>Data Protection</b>
10.2	The Client provides a royalty-free licence to P81 to use all Client Information for the purpose of providing the Services.	12.1	For the purposes of this clause 12, the terms <b>controller, processor, data subject, personal data, personal data breach</b> and <b>processing</b> will have the meaning given to them in the UK GDPR.
10.3	The Client will notify P81 immediately on becoming aware of any threatened or actual infringement of any Intellectual Property Rights which are relevant to the Services or the Client's website.	12.2	Both parties will comply with all applicable requirements of the Data Protection Laws. This clause 12 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Laws.
10.4	The Client acknowledges that all Intellectual Property Rights used for the provision of the Services that originate from P81 will remain the exclusive property of P81 or, where applicable, the third party licensor from whom P81 derives the right to use them.	12.3	The parties agree that the Client is a controller and that P81 is a processor for the purposes of processing personal data pursuant to the Contract.
10.5	The Client grants to P81 a non-exclusive licence to use its branding in connection with P81's performance of the Services.	12.4	The Client will ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the personal data to P81 and/or the lawful collection of the same by P81 for the duration and purposes of the Contract.
<b>11</b>	<b>Confidentiality and Announcements</b>	12.5	The Contract Details sets out the scope, nature and purpose of processing by P81, the duration of the processing and the types of personal data and categories of data subject.
11.1	Both the Client and P81 will at all times keep confidential all Confidential Information of the other party and will only use the information as required to perform the Contract. The provisions of this clause 11 will not apply to:	12.6	The Client will ensure all instructions given by it to P81 in respect of personal data will at all times be in accordance with Data Protection Laws.
11.1.1	any information which was in the public domain at the date of the Contract;	12.7	The Client will indemnify and keep indemnified P81 against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands, legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Client of its obligations under this clause 12.
11.1.2	any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;		
11.1.3	any information which is independently developed by the Client or P81 without using information supplied by the other party; or	12.8	P81 will:
11.1.4	any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract	12.8.1	only process (and will ensure P81 Personnel only process) the personal data in accordance with the Contract Details, except to the extent:
	except that the provisions of clauses 11.1.1 to 11.1.3 will not apply to information to which clause 11.3 relates.	(a)	that alternative processing instructions are agreed between the parties in writing; or
		(b)	otherwise required by applicable law (and will inform the Client of that

	legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest); and	12.15	P81 will notify the Client without undue delay and in writing on becoming aware of any personal data breach in respect of any personal data used in performing the Services.
12.8.2	if P81 believes that any instruction received by it from the Client is likely to infringe the Data Protection Laws, it will be entitled to cease to provide the relevant Services until the parties have agreed appropriate amended instructions, which are not infringing.	12.16	On the end of the provision of the Services relating to the processing of personal data, at the Client's cost and the Client's option, P81 will either return all of the personal data to the Client or securely dispose of the personal data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires P81 to store such personal data. This clause 12 will survive termination or expiry of the Contract.
12.9	Taking into account the state of technical development and the nature of processing, P81 will implement and maintain appropriate technical and organisational measures to protect the personal data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.	<b>13</b>	<b>Force Majeure</b>
12.10	P81 will:	13.1	P81 will not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it promptly notifies the Client of the Force Majeure event and its expected duration and uses all reasonable endeavours to minimise the effects of that event.
12.10.1	ensure that any personnel engaged and authorised by P81 to process personal data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;	<b>14</b>	<b>Term and Termination</b>
12.10.2	prior to a sub-processor carrying out any processing activities in respect of the personal data, appoint each sub-processor under a written contract containing materially the same obligations as under this clause 12. The Client provides its prior general authorisation for P81 to appoint sub-processors;	14.1	The term of the Contract will be as specified in the Contract Details.
12.10.3	remain fully liable to the Client under the Contract for all the acts and omissions of each sub-processor as if they were its own.	14.2	Where the Services are provided on a one-off basis, the Services will be deemed performed on completion of performance of the Services.
12.11	The Client acknowledges and approves that P81 may outsource the provision of some of the Services.	14.3	All contracts for the provision of Search Engine Optimisation, Pay Per Click or Social Media Services will be on a rolling contract unless otherwise stated in the Contract Details. Unless terminated earlier in accordance with the Conditions, the Contract will continue for the Initial Term and automatically extend for the Extended Term at the end of the Initial Term and at the end of each subsequent Extended Term. Either party may give written notice to the other party, in accordance with the notice periods set out in the Contract Details, to terminate the Contract at the end of the then current term.
12.12	P81 will (at the Client's cost and written request) assist the Client insofar as this is possible (taking into account the nature of the processing and the information available to P81), in responding to any request from a data subject and in ensuring the Client's compliance with its obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.	14.4	If the Contract Details does not specify "One-off services", P81 will provide the Services for the Term.
12.13	P81 will not process and/or transfer personal data in or to countries outside the United Kingdom without complying with Data Protection Laws. For these purposes, the Client will promptly comply with any reasonable request of P81, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time (where the EU GDPR applies to the transfer) or adopted by the Commissioner from time to time (where the UK GDPR applies to the transfer).	14.5	P81 may suspend performance of the Services (including website hosting services) if:
12.14	P81 will, in accordance with Data Protection Laws, maintain records to demonstrate its compliance with this clause 12, and allow for reasonable audits by the Client, for this purpose, on reasonable written notice (subject to a maximum of one audit request in any 12 month period).	14.5.1	the Client is in breach of the Contract;
		14.5.2	the Client has invoices outstanding more than 7 days beyond their due date whether in respect of the particular services being suspended or any other services performed (or to be performed) by P81;
		14.5.3	has failed to provide accurate and timely Client Information which is required by P81 to perform the Services;
		14.5.4	there is a potential or actual breach of the Intellectual Property Rights of a third party in respect of the Client Information; or
		14.5.5	there is a security breach of the Client's website which requires investigation.



14.6	P81 may terminate the Contract or any other contract which it has with the Client at any time by giving notice in writing to the Client if:	or procedures described in clauses 14.8.1 to 14.8.10 including giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
14.6.1	the Client commits a material breach of Contract and such breach is not remediable;	
14.6.2	the Client commits a material breach of the Contract which is capable of being remedied and such breach is not remedied within 14 days of receiving written notice of such breach;	14.9 The right of P81 to terminate the Contract pursuant to clause 14.8 will not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to the Contract.
14.6.3	the Client has failed to pay any amount due under the Contract on the due date and such amount remains unpaid 30 days after the due date; or	
14.6.4	any consent, licence or authorisation held by the Client is revoked or modified such that the Client is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.	14.10 Termination or expiry of the Contract will not affect any accrued rights and liabilities of P81 at any time up to the date of termination.
14.7	The Client acknowledges that if the Services are suspended pursuant to clause 4.9 this is likely to adversely affect the results of the Services and also necessitate the requirement for additional work to be performed to bring the results of the Services back to the level achieved prior to the suspension and such additional work will be at additional cost.	14.11 No refunds will be due to the Client on termination or expiry of the Contract in any circumstances unless provided for in these Conditions.
14.8	P81 may terminate the Contract at any time by giving notice in writing to the Client if the Client:	14.12 On termination or expiry of the Contract:
14.8.1	stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;	14.12.1 the Client will immediately pay to P81 all of P81's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, P81 may submit an invoice, which will be payable immediately on receipt;
14.8.2	is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if P81 reasonably believes that to be the case;	14.12.2 the Client will return all of P81's materials and any Deliverables which have not been fully paid for. If the Client fails to do so, then P81 may enter the Client's premises and take possession of them. Until they have been returned, the Client will be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
14.8.3	becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;	
14.8.4	has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;	<b>15 Dispute Resolution</b>
14.8.5	has a resolution passed for its winding up;	15.1 Any dispute arising between the parties out of or in connection with the Contract will be dealt with in accordance with the provisions of this clause 15.
14.8.6	has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;	15.2 The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice will include reasonable information as to the nature of the dispute.
14.8.7	is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within seven days of that procedure being commenced;	15.3 The parties will use all reasonable endeavours to reach a negotiated resolution through the following procedures:
14.8.8	has a freezing order made against it;	15.3.1 within 7 days of service of the notice, the account managers of the parties (as identified in the Contract Details) will meet to discuss the dispute and attempt to resolve it.
14.8.9	is subject to any recovery or attempted recovery of items supplied to it by P81 retaining title to those items;	15.3.2 if the dispute has not been resolved within 7 days of the first meeting of the account managers, then the matter will be referred to Directors (or persons of equivalent seniority) of each party. The Directors (or equivalent) will
14.8.10	is subject to any events or circumstances analogous to those in clauses 14.8.1 to 14.8.9 in any jurisdiction;	
14.8.11	takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events	

meet within 7 days to discuss the dispute and attempt to resolve it.

15.4 Until the parties have completed the steps referred to in clause 15.3, and have failed to resolve the dispute, neither party will commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

## **16 Notices**

16.1 Any formal notice required to be given under these Conditions will be in writing and will be delivered by email to the other party using the email address set out in the Contract Details, or by hand or by pre-paid first-class post or recorded delivery post to the other party at its address set out in the Contract Details, or such other address as may have been notified by that party for such purposes.

16.2 A notice delivered by email will be deemed to have been received at the time of transmission (or if delivery is not between 9am – 5pm, at 9 am on the first Business Day following delivery), by hand will be deemed to have been received when delivered (or if delivery is not between 9am – 5pm, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post will be deemed to have been received at the time at which it would have been delivered in the normal course of post.

16.3 Any change to the contact details of a party as set out in the Contract Details will be notified to the other party in accordance with clause 16.1 and will be effective on the date specified in the notice as being the date of such change, or if no date is so specified, 5 Business Days after the notice is deemed to be received.

16.4 All references to time are to the local time at the place of deemed receipt.

16.5 This clause 16 does not apply to notices given in legal proceedings.

## **17 Cumulative Remedies**

The rights and remedies provided in the Contract for P81 only are cumulative and not exclusive of any rights and remedies provided by law.

## **18 Time**

Unless stated otherwise, time is of the essence of any date or period specified in the Contract in relation to the Client's obligations only.

## **19 Further Assurance**

The Client will at the request of P81, and at the Client's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

## **20 Entire Agreement**

20.1 The parties agree that the Contract and any documents entered into pursuant to it, constitutes the entire agreement between them and supersedes all previous

agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

20.2 Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and will have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party will have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

20.3 Nothing in these Conditions purports to limit or exclude any liability for fraud.

## **21 Variation**

No variation of the Contract will be valid or effective unless it is in writing, refers to the Contract and these Conditions and is duly signed or executed by, or on behalf of, P81.

## **22 Assignment and Other Dealings**

22.1 Neither party may at any time assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

22.2 Notwithstanding the above, nothing in the Contract shall prevent P81 from subcontracting part of the Services.

## **23 Set-off**

23.1 P81 will be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Client under the Contract or under any other contract which P81 has with the Client.

23.2 The Client will pay all sums that it owes to P81 under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

## **24 No Partnership or Agency**

The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties will have, nor will represent that they have, any authority to make any commitments on the other party's behalf.

## **25 Equitable Relief**

The Client recognises that any breach or threatened breach of the Contract may cause P81 irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to P81, the Client acknowledges and agrees that P81 is entitled to seek the remedies of specific performance, injunction and other equitable relief without proof of special damages.

## **26 Severance**

- 26.1 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract will not be affected.
- 26.2 If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question will apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties will negotiate in good faith to agree the terms of a mutually acceptable alternative provision.

## **27 Waiver**

- 27.1 No failure, delay or omission by the Contract in exercising any right, power or remedy provided by law or under the Contract will operate as a waiver of that right, power or remedy, nor will it preclude or restrict any future exercise of that or any other right, power or remedy.
- 27.2 No single or partial exercise of any right, power or remedy provided by law or under the Contract by P81 will prevent any future exercise of it or the exercise of any other right, power or remedy by P81.

## **28 Compliance With Law**

The Client will comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and will maintain such

authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

## **29 Conflicts**

If there is a conflict between the terms contained in the Conditions and the Contract Details, the terms in the Contract Details will prevail.

If there is any conflict between the Contract Details and any proposal referred to therein, the terms in the Contract Details will prevail.

## **30 Third Party Rights**

- 30.1 A person who is not a party to the Contract will not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

## **31 Governing Law**

The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) will be governed by, and construed in accordance with, the laws of England and Wales.

## **32 Jurisdiction**

The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).