

STANDARD VENDOR TERMS AND CONDITIONS

Thank you for working with Keywords! We will place an order for products or services by way of a "Statement of Work" or "SOW" (as defined below) or another document that contains details of the products or services to be provided by you and paid by us, either separately or pursuant to a "Vendor Agreement" that you may have agreed with us. Each SOW shall form a separate contract once signed by each party, whether or not it has been entered into pursuant to a Vendor Agreement.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, the following words and expressions set out in this Paragraph 1 shall have the following meanings:

Acceptance Notice has the meaning given in Paragraph 5.2.

Acceptance Testing has the meaning given in Paragraph 5.1.

Agreement means this Vendor Services Agreement, including these Standard Terms, the Special Terms and all Statements of Work.

Affiliate means, in relation to a Party, any entity that directly or indirectly Controls, is Controlled by, or is under common Control with that party from time to time and where control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company (and controls and controlled shall be construed accordingly).

Applicable Law means any laws, by-laws, regulations, codes, guidance, orders or directions issued from time to time by any court, government or other competent regulatory authority applicable to a Party.

Applicable Tax means any taxes, duties or other levies paid or payable to any competent authority, including value added tax, sales tax, excise tax, use tax, goods and services tax, consumption tax, income tax, corporation tax, withholding tax and any others of equivalent effect.

Background IPR means any and all Intellectual Property Rights that were owned or licensed to a Party either: (a) before the Effective Date; or (b) on or after the Effective Date that are not Deliverables IPR.

Business Days means Monday to Friday, excluding public holidays in the Republic of Ireland, or such other definition given in the relevant Statement of Work.

Change Order has the meaning given in Paragraph 4.1.

Charges means the sums payable by Keywords to Vendor for the Services and/or Deliverables under this Agreement in accordance with the terms of Paragraph 6 and as calculated in the relevant Statement of Work.

Confidential Information means any private, secret and/or confidential information which is disclosed by either Party under or in connection with a Statement of Work (whether orally or in writing and whether or not such information is expressly stated to be confidential or marked as such and including any confidential information of any Keywords Customer).

Control means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company (and **Controls** and **Controlled** shall be construed accordingly).

Data Protection Laws means the Data Protection Act 2018, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 and any relevant law implemented

as a result of the foregoing, and any other laws in connection with the processing of personal information with which a Party is obliged to comply. In this Agreement, the terms "controller", "data subject", "personal data" and "process" have the meaning given to them by Data Protection Laws.

Deliverables means any works and materials that are provided by Vendor to Keywords as part of the Services under this Agreement, including any work identified as such in a Statement of Work.

Deliverables IPR has the meaning given in Paragraph 8.2.

Effective Date means the date at the top of this Agreement.

Good Industry Practice means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.

Indemnified Parties has the meaning given in Paragraph 12.1.

Indemnity Claim has the meaning given in Paragraph 12.1.

Insolvency Event means the occurrence of any of the following events or circumstances (or any analogous event or circumstance in a jurisdiction other than England and Wales) in relation to the other Party: (a) being deemed unable to pay its debts as defined in section 123 Insolvency Act 1986 without any requirement to prove any matter stated in that section to a court, (b) proposing a voluntary arrangement; (c) steps being taken for a receiver, administrator or manager to be appointed over the whole or a material part of its business or assets; (d) an order being made, a resolution passed or other steps being taken for its winding-up (except for the purposes of a bona fide solvent reorganisation), bankruptcy or dissolution; (e) otherwise proposing or entering into any composition or arrangement with its creditors or any class of them; or (f) ceasing to carry on business or claiming the benefit of any statutory moratorium.

Intellectual Property Rights means patents (including any supplementary protection certificates or other extensions thereof), utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, rights in business names and domain names, rights in get up and trade dress, goodwill and the right to sue for passing off and unfair competition, rights in designs, rights in computer software, database rights and all other intellectual property rights, in each case whether in whole or in part, whether registered or unregistered, and for the whole legal term of protection of such rights 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 that subsist now or will subsist in the future in any part of the world.

IPR Claim has the meaning given in Paragraph 12.1(a).

Key Personnel has the meaning given in Paragraph 10.1.

Keywords means the party identified as such at the top of this Agreement.

Keywords Customer means a customer of Keywords to which Keywords will make available the Services and any Deliverables provided to Keywords by Vendor, including any such customer expressly identified in a Statement of Work.

Keywords Materials means any works and materials provided by Keywords to Vendor under a Statement of Work, including any accompanying documentation.

Keywords Project Manager has the meaning given in Paragraph 3.1.

Material Change Notice has the meaning given in Paragraph 4.3.

Party means a party to this Agreement, being Vendor or Keywords, and "**Parties**" shall mean Vendor and Keywords together.

Rejection Notice has the meaning given in Paragraph 5.2.

Services means any services that are to be provided by Vendor to Keywords under a Statement of Work, as may be supplemented or amended from time to time.

Special Terms means the Special Vendor Terms and Conditions appended at Schedule 2 to this Agreement.

Standard Terms means these Standard Vendor Terms and Conditions that govern this Agreement (including each Statement of Work).

Statement of Work means a document recording the description of Services to be provided by Vendor to Keywords under this Agreement from time to time, whether or not entered into on the form set out in Schedule 3 to this Agreement.

Term has the meaning given in Clause **Errorre. L'origine riferimento non è stata trovata.** of this Agreement.

Transfer Regulations means any national legislation implementing the provisions of the Transfers of Undertakings Directive 2001/23/EC of 12 March 2001 (including any legislation amending, modifying, extending, varying, superseding, replacing, substituting or consolidating it from time to time), including for the avoidance of doubt as amended or replaced or any other equivalent or analogous legislation in any other jurisdiction.

Vendor means the party identified as such at the top of this Agreement.

Vendor Materials means any works and materials in which Vendor is the owner or licensee of the Background IPR, including any listed in a Statement of Work.

Vendor Personnel means any and all employees, directors, officers, contractors, consultants and agents of Vendor and its Affiliates from time to time.

Vendor Project Manager has the meaning given in Paragraph 2.1.

1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.3 Use of the singular includes the plural and vice versa. A reference to one gender shall include a reference to the other genders.

1.4 A reference to a Clause is a reference to a clause of the Agreement and a reference to a Paragraph is a reference to a clause of the Standard Terms in this Schedule 1 or the Special Terms in Schedule 2. A reference to the Appendix is a reference to the appendix to these Standard Terms.

1.5 Headings to Paragraphs are for the purpose of information and identification only and do not affect the interpretation of these Standard Terms.

1.6 A reference to "writing" or "written" includes email, but not fax.

1.7 Any phrase introduced by the words "**including**", "**include**", "**in particular**" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those words.

2. VENDOR'S OBLIGATIONS

2.1 **Project Manager.** Vendor shall appoint a manager for the Services by naming an individual in a Statement of Work or by mutual agreement in writing, who shall act as the primary point of contact for Keywords in matters relating to the Services (the "**Vendor Project Manager**").

2.2 **Services.** Vendor shall, at all times during the Term:

- (a) provide the Services (including the delivery of any agreed Deliverables) agreed in a Statement of Work to Keywords on the terms set out in this Agreement (including the relevant Statement of Work);
- (b) provide the Services in accordance with Good Industry Practice;
- (c) ensure that any Deliverables conform in all respects with the relevant Statement of Work and that the Deliverables shall be fit for any purpose expressly or implicitly made known to Vendor by Keywords;
- (d) ensure that the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
- (e) co-operate with Keywords and any Keywords Customer in all matters relating to the Services, and comply with all Keywords' instructions; and
- (f) before the date on which the Services are to start, obtain and maintain during the term of the relevant Statement of Work, all necessary licences and consents and comply with all relevant legislation in relation to the Services.

2.3 **Policies.** Vendor shall, and shall procure that the Vendor Personnel shall, at all times and in all respects comply with any policies provided to Vendor by Keywords or any Keywords Customer from time to time.

2.4 **Delivery times.** Vendor shall meet any agreed delivery times for Services and/or Deliverables set out in a Statement of Work, in relation to which time shall be of the essence, notwithstanding any other provision of this Agreement.

2.5 **Deliverables records.** Subject always to Paragraph 15.4, Vendor shall keep its own copy of the Deliverables in digital form and provide this to Keywords upon request for a period of at least 2 (two) years following delivery of such Deliverables.

2.6 **Vendor Materials.** Vendor may not include any Vendor Materials or any third-party works or materials in any Deliverables, except as expressly agreed in advance by Keywords, acting in its sole discretion, in a Statement of Work or otherwise in writing and subject always to Vendor's providing full particulars of the Vendor Materials to Keywords in advance, including the relevant authors and sources, failing which the Intellectual Property Rights in the relevant Vendor Materials shall be deemed to be part of the Deliverables and not Vendor Materials under Paragraph 8. For the avoidance of doubt, Vendor may use software tools and other Vendor Materials to

create the Deliverables without the prior written consent of Keywords.

- 2.7 Subcontracting. Vendor may not subcontract the performance of any or all of its obligations under this Agreement without Keywords' prior written consent, acting in its sole discretion and on the condition that Vendor shall be strictly liable to Keywords and any Keywords Customer for the acts and omissions of its subcontractor. Before granting consent, Keywords may require any subcontractor to enter into a confidentiality agreement with the same minimum protections contained in this Agreement.
- 2.8 Place of performance. Vendor shall use its own premises, facilities and equipment, unless otherwise agreed in a Statement of Work. If a place of performance has been specified in a Statement of Work, Vendor may only provide the Services from the place or places identified.

3. KEYWORDS' OBLIGATIONS

- 3.1 Project Manager. Keywords shall appoint a manager for the Services by naming an individual in a Statement of Work or by subsequent notice in writing, who shall act as the primary point of contact for Keywords in matters relating to the Services (the "**Keywords Project Manager**").
- 3.2 Keywords Materials. Keywords shall deliver to Vendor, in accordance with the delivery terms set out in the Statement of Work or within a reasonable period, all Keywords Materials agreed in a Statement of Work or otherwise necessary for the provision of the Services by Vendor.

4. CHANGE ORDERS

- 4.1 Written request. At any time during the Term, a Party may request an amendment to a Statement of Work by serving on the other Party a written request with the proposed amendments (a "**Change Order**").
- 4.2 Minor requests. If the amendments requested by a Party in a Change Order are minor (which shall include all amendments that would take Vendor two (2) or fewer additional Business Days to complete), then:
- (a) in the case of amendments requested by Keywords, Vendor shall make the changes requested by such Change Order without any further variation to the Statement of Work; and
 - (b) in the case of amendments requested by Vendor, Keywords shall, at its own discretion, decide whether or not to adopt the changes requested by such Change Order and if it does, Vendor shall make those changes without any further variation to the Statement of Work.
- 4.3 Material requests. If the amendments requested by Keywords in a Change Order are not minor, then Vendor shall serve a written notice on Keywords with a sufficiently detailed explanation of why Vendor reasonably considers that the amendments are not minor (a "**Material Change Notice**"). If Vendor does not serve a valid Material Change Notice on Keywords within 5 (five) Business Days of receiving a Change Order from Keywords, then the amendments required by Keywords in the Change Order shall be deemed to be minor and Paragraph 4.2 shall apply.
- 4.4 Negotiations. Following the service of a Change Order in accordance with Paragraph 4.1, the Vendor Project Manager and the Keywords Project Manager shall negotiate the proposed amendments to the Statement of Work in good faith. At any time during those negotiations, the Party that served the Change Order may withdraw that Change Order and the Parties shall each bear their own costs of the negotiation.
- 4.5 Recording amendments. If the Parties agree to amend a Statement of Work following the service of a Change Order, the Parties shall record the amendments in writing (which may include email).

5. ACCEPTANCE TESTING

- 5.1 Acceptance Testing. Keywords may carry out testing of Deliverables provided by Vendor to ensure that they comply with the requirements of the Statement of Work ("**Acceptance Testing**"). Vendor shall take all necessary steps to assist Keywords with Acceptance Testing, including providing access to test builds, test accounts and other appropriate software where appropriate.
- 5.2 Acceptance/rejection. If, within 15 (fifteen) Business Days of commencing Acceptance Testing, or such other period as may be communicated by Keywords from time to time, Keywords determines that a Deliverable passes, then it shall issue a notice of acceptance to Vendor (which may be by email) ("**Acceptance Notice**"). If Keywords determines that a Deliverable does not pass Acceptance Testing (in whole or in part) it shall issue a notice of rejection to Vendor (which may be by email), together with reasons for the rejection ("**Rejection Notice**").
- 5.3 Effect of rejection. If Keywords issues a Rejection Notice in respect of a Deliverable, Vendor shall promptly correct all defects (including any specifically identified by Keywords) and return the corrected Deliverable for Acceptance Testing as soon as possible, but always within 5 (five) Business Days.
- 5.4 Repeat rejection. If, after 2 (two) iterations of the Acceptance Testing process outlined above, a particular Deliverable still does not pass Acceptance Testing, then, without prejudice to any other right or remedy of Keywords under this Agreement or at law, Keywords may, at its sole and absolute discretion:
- (a) reject that Deliverable and require it to be corrected and delivered again in accordance with the Acceptance Testing process detailed above;
 - (b) correct the Deliverable or engage a third party to correct the Deliverable, in either case at Vendor's sole cost;
 - (c) terminate this Agreement (either in whole or in part, including any Statement of Work).

6. CHARGES

- 6.1 Payment. Subject to Vendor's compliance with the terms of this Agreement, Keywords shall pay all Charges in accordance with the provisions of this Paragraph 6 and the relevant Statement of Work.
- 6.2 Time and materials Charges. Where the Charges are calculated on a time and materials basis:
- (a) Vendor's daily fee rates for each individual person shall be listed in the Statement of Work calculated on the basis of an eight-hour day, worked during business hours, save as otherwise agreed in a Statement of Work; and
 - (b) Vendor shall ensure that all Vendor Personnel complete time sheets to record time spent on the Services, and Vendor shall indicate the time spent per individual in its invoices.
- 6.3 Fixed Charges. Where the Charges are calculated on a fixed-price basis, the amount of those Charges shall be as set out in the relevant Statement of Work and no further sums shall be payable by Keywords.
- 6.4 Expenses. Vendor will be responsible for all out-of-pocket expenses incurred by it and the Vendor Personnel in the performance of its obligations under this Agreement, save where expressly agreed in a Statement of Work or by other prior agreement in writing with Keywords.
- 6.5 Invoices. Vendor shall submit invoices for the Charges and any agreed expenses to Keywords in accordance with the provisions of a Statement of Work. Vendor shall send invoices to Keywords in accordance with any instructions and addressed to any contact details provided by Keywords in a Statement of Work or otherwise provided from time to time.

- 6.6 **Payment terms.** Keywords shall pay the Charges and agreed expenses set out in an undisputed invoice submitted to Keywords' invoicing platform or can be exceptionally sent in electronic form to the Accounts Payable departments at the addresses provided by Keywords to the Service Provider in writing. Charges and agreed expenses will be paid within 45 calendar days from the last day of the month of the date of receipt of the invoice. Invoices sent in electronic form need to be agreed with Keywords in advance. Keywords will send the detailed invoicing instructions separately
- 6.7 **Taxes.** All Charges and any other amounts in this Agreement are exclusive of Applicable Tax, save as agreed in a Statement of Work. Keywords shall be entitled to deduct from the Charges any withholding taxes or similar taxes that may be imposed by Applicable Law and shall provide Vendor with documentation of any such deduction, including any available withholding tax certificates and exemption certificates, but Vendor shall be responsible for the recovery of any withheld amounts.
- 6.8 **Tax credits.** Keywords shall have sole control over, entitlement to and benefit of any applicable tax reliefs (including any 'Video Games Tax Relief' or 'R&D Tax Credits') in relation to Services and Deliverables. Where applicable, Keywords shall be the "Video Games Development Company", as defined under Part 15B of the Corporation Tax Act 2009 (or any similar legislation under Applicable Law in any part of the world), for any relevant Deliverable. Vendor may not make any application for Video Games Tax Relief or R&D Tax Credits under the Corporation Tax Act 2009 or any other Applicable Law in respect of any Services or Deliverables, or take any other action which may conflict with a video games tax relief claim or any other tax relief claim by Keywords.
- 7. AUDIT**
- 7.1 **Audit rights.** During the Term and for 2 (two) years after the Term has ended, Vendor shall keep at its principal place of business books of accounts and records, together with supporting documentation relating to the calculation of the Charges and its compliance with this Agreement. Vendor shall allow Keywords, the Keywords Customer and their respective professional advisers to access its premises, systems and records to verify the calculation of the Charges and its compliance with its obligations under this Agreement.
- 7.2 **Audit process.** Keywords shall provide at least 10 (ten) Business Days' notice of its intention to conduct an audit and the audit shall be conducted during business hours. Keywords, the Keywords Customer and their professional advisers shall have the right to make and remove copies of any records that they reasonably require and Vendor shall provide Keywords with all reasonable assistance to carry out the audit.
- 8. INTELLECTUAL PROPERTY**
- 8.1 **Reservation of rights.** Each Party reserves all its rights in its Background IPR.
- 8.2 **Assignment.** To the extent permitted under Applicable Law, Keywords shall be the sole and exclusive owner of all Intellectual Property Rights in or relating to the Deliverables from the moment of creation, which shall be considered "works made for hire" for the purposes of the copyright law of the United States (the "**Deliverables IPR**"). Vendor further hereby assigns and transfers to Keywords all its right, title and interest in and to the Deliverables IPR absolutely, solely and exclusively, with effect from the moment of creation, including:
- all goodwill, statutory, common law and equivalent rights around the world attaching to the Deliverables IPR;
 - the right to bring, make, oppose, defend, appeal proceedings, claims or actions and to obtain relief (and to retain any and all damages, account of profits or other financial sums recovered) in respect of any infringement, or any other cause of action arising from ownership, of any of the Deliverables IPR, whether occurring at any time before, on, or after the effective date of the assignment;
- the right to license the Deliverables IPR to third parties;
 - the right to combine the Deliverables IPR with other works; and
 - the right to reproduce and adapt the Deliverables IPR by any means (including multimedia, wireless and/or any other form of reproduction of sight), whether now known or created in the future.
- 8.3 **Further assurance.** Vendor shall, and shall procure that any necessary third party shall, promptly execute and deliver such documents that may reasonably be required for the purpose of giving full effect to Paragraph 8.2, including registration of Keywords as proprietor, registrant or applicant (as applicable) of the Deliverables IPR. Upon written request from Keywords, Vendor shall further procure the signature by any individual Vendor Personnel, including actors, voice actors, artists, musicians and composers, of any individual agreements that may be required by Keywords or requested by a Keywords Customer from time to time to give effect to Paragraph 8.2.
- 8.4 **Vendor licence.** Vendor hereby grants to Keywords a non-exclusive, perpetual, irrevocable, fully-paid, worldwide licence to use any Vendor Materials that are contained in, or required to use, any Deliverables, with all the rights to use, reproduce, modify, develop, host, distribute (directly or indirectly), sell, rent and carry out all other acts that may be required for Keywords to enjoy its rights under this Agreement. Keywords may sub-license, assign or otherwise transfer the licence granted by this Paragraph 8.4 to third parties.
- 8.5 **Keywords licence.** Keywords hereby grants to Vendor a non-exclusive, fully paid, worldwide licence for the term of the relevant Statement of Work to use the Keywords Materials, with all the rights to use, reproduce, modify, develop, host, distribute (directly or indirectly) publicly perform, broadcast, stream, communicate to the public, sell, rent and carry out all other acts that may be required for Vendor to provide the Services under the Statement of Work. Vendor may sub-license the licence granted by this Paragraph 8.5 to any of its Affiliates, Vendor Personnel and any other third parties in the course of providing the Services, but Vendor may not otherwise sub-license, assign or transfer such licence.
- 8.6 **Moral rights.** Vendor shall procure that the authors of any works that are the subject of the Deliverables IPR waive any and all moral rights that may arise in such works under Part I, Chapter IV of the Copyright, Designs and Patents Act 1988 (and any and all equivalent or analogous rights arising under similar legislation in jurisdictions outside the United Kingdom) to the maximum extent possible under Applicable Law.
- 9. MARKETING AND CREDITS**
- 9.1 **No publicity.** Vendor and its Affiliates may not, except as expressly otherwise permitted by Keywords in a Statement of Work or otherwise in writing, make any public statements about its relationship with Keywords or any Keywords Customer, including the use of the name or logos of Keywords or any Keywords Customer in any marketing or advertising materials.
- 9.2 **Credits.** Vendor may be entitled to a credit in any computer or video game or other product that contains the Deliverables only where this has been expressly agreed in a Statement of Work. The form, content and placement of any credit shall be set out in the relevant Statement of Work or otherwise determined by Keywords or a Keywords Customer in its sole discretion.
- 10. VENDOR PERSONNEL**
- 10.1 Vendor shall appoint any Vendor Personnel as key personnel ("**Key Personnel**"), to the roles set out in a Statement of Work, where so requested by Keywords. The Key Personnel shall be granted the actual authority by Vendor to act on behalf of

Vendor and bind Vendor on the matters for which they are expressed to be responsible.

10.2 Vendor is solely responsible for paying all remuneration and associated employment costs associated with the employment or engagement of the Vendor Personnel and shall be responsible for making any deductions required by any Applicable Law.

10.3 During the term of a Statement of Work, Vendor shall:

- (a) ensure that all Vendor Personnel involved in the provision of the Services, including the Key Personnel, have suitable skills and experience to enable them to perform the tasks assigned to them, and that such Vendor Personnel are in sufficient number to enable Vendor to fulfil its obligations under this Agreement;
- (b) use the Key Personnel in the roles given in the Statement of Work in the provision of the Services and ensure that such Key Personnel shall at all times be directly and materially involved in the performance of Vendor's obligations under this Agreement;
- (c) promptly inform Keywords of the absence (or the anticipated absence) of any of the Key Personnel, and if so required by Keywords, provide a suitably qualified replacement for such individual; and
- (d) use its reasonable endeavours to ensure continuity of Vendor Personnel; and
- (e) not make any changes to the Key Personnel unless:
 - (i) requested to do so by Keywords, if Keywords determines that the relevant Key Personnel has failed to carry out their duties with reasonable skill and care, in which case Vendor shall ensure that such Key Personnel is replaced promptly with a person with the necessary training and skills to carry out the Services;
 - (ii) the person is on long-term sick leave;
 - (iii) the element of the Services in respect of which the individual was engaged has been completed to Keywords' satisfaction;
 - (iv) the person resigns from their engagement by Vendor; or
 - (v) Vendor obtains the prior written consent of Keywords.

11. WARRANTIES

11.1 Vendor warranties. Vendor represents and warrants on an ongoing basis that:

- (a) it has full capacity and authority, and all necessary licences, permits and consents to enter into and perform this Agreement;
- (b) it shall comply with all Applicable Law that are applicable to it, including in respect of its obligations to Vendor Personnel, such as in relation to compliance with laws on minimum wage or health and safety at work, and including its obligations under the Modern Slavery Act 2015 and the Bribery Act 2010 (or any other equivalent or analogous legislation in jurisdictions outside of the United Kingdom);
- (c) the Services shall be provided in accordance with Good Industry Practice;
- (d) the Services and Deliverables provided by it shall conform to the requirements of the relevant Statement of Work;
- (e) the Services and Deliverables provided by it shall be fit for any purpose set out in a Statement of Work;
- (f) the Deliverables are the original work of Vendor and the Vendor Personnel and have not been copied from any third-party source;

- (g) it has obtained a full written legal and equitable assignment of the Deliverables IPR from its authors and a full waiver of any moral rights (and any similar rights to moral rights arising in any jurisdiction around the world) arising in any Deliverables IPR from its authors to the maximum extent permitted under Applicable Law;
- (h) it has all the rights necessary to grant the licence granted under Paragraph 8.4;
- (i) the Services and Deliverables provided by it shall not infringe the Intellectual Property Rights of any third party;
- (j) the Deliverables shall be free from defects in material and workmanship and of satisfactory quality;
- (k) the Deliverables shall be free from any viruses, worms, trojans and other harmful elements that could damage or interrupt any systems, software, hardware or devices of Keywords, a Keywords Customer or any third party;
- (l) the Deliverables shall be free from any 'Easter eggs' or other content that has not been disclosed to Keywords;
- (m) the Deliverables shall not include any material which is defamatory, pornographic or illegal under Applicable Law;
- (n) the Deliverables shall not contain any open source software or software that is offered under generally recognised free software licences, unless expressly agreed in the Statement of Work or by prior agreement in writing with Keywords; and
- (o) the Deliverables shall not contain any Vendor Materials or third-party materials, except where agreed by Keywords in writing in advance.

11.2 Keywords warranties. Keywords warrants on an ongoing basis that:

- (a) it has full capacity and authority, and all necessary licences, permits and consents to enter into and perform this Agreement; and
- (b) it shall comply with all Applicable Laws that are applicable to it.

12. INDEMNITIES

12.1 Indemnification. Without prejudice to any other rights or remedies set out in this Agreement, the Vendor hereby agrees to defend, indemnify and hold harmless Keywords, its Affiliates, any Keywords Customers and each of their respective directors, officers, employees, consultants and agents (the "**Indemnified Parties**") from and against any and all losses, damages, liabilities, costs and expenses (including professional fees) that arise out of or in connection with any actual or alleged claim, demand or action:

- (a) that the Services and/or Deliverables infringes the Intellectual Property Rights of any third party (an "**IPR Claim**"),
- (b) that alleges that an Indemnified Party is in breach of any Applicable Law as a result of any act or omission of Vendor,
- (c) made against an Indemnified Party by any third party arising from any defect in the performance of the Services or the provision of the Deliverables caused by Vendor's breach of this Agreement,
- (d) made against an Indemnified Party by any of the Vendor Personnel that seeks to recover any pay, benefits, PAYE payments, National Insurance contributions, pension contributions and other amounts payable in respect of the engagement of any of the Vendor Personnel,
- (e) by any Keywords Customer against an Indemnified Party that alleges that the Services or Deliverables provided by Vendor are not of satisfactory quality,

- (f) by any Keywords Customer against an Indemnified Party that alleges that Vendor (including the Vendor Personnel) have disclosed the Confidential Information of a Keywords Customer,
 - (g) arises from any act or omission of any subcontractor appointed by Vendor,
 - (h) arises from any breach of this Agreement by Vendor, including any breach of the warranties in Paragraph 11.1, each being an “**Indemnity Claim**”.
- 12.2 Conduct of indemnity claims. If an Indemnified Party receives notice of any Indemnity Claim, it shall:
- (a) give written notice of the Indemnity Claim, together with reasonable particulars of it, to Vendor as soon as reasonably practicable;
 - (b) not make any admission of liability or agree any settlement or compromise of the Indemnity Claim without the prior written consent of Vendor (such consent not to be unreasonably withheld or delayed);
 - (c) permit Vendor, at its request and sole expense, to have conduct of or settle all litigation arising from the Indemnity Claim, provided that, if Vendor fails to conduct the Indemnity Claim in a timely or proper manner, Keywords may have conduct of or settle the Indemnity Claim at Vendor’s sole expense; and
 - (d) provide Vendor with reasonable assistance in relation to the Indemnity Claim (at Vendor’s sole expense), including the provision of access to any relevant premises, officers, employees and contractors.

13. INSURANCE

- 13.1 Minimum insurance cover. Vendor shall maintain in force with reputable insurers:
- (a) any insurance policies required by Applicable Laws that are applicable to Vendor; and
 - (b) for the duration of the Term and for a period of not less than 3 years after the Term, insurance policies adequate to cover all its potential liabilities arising under this Agreement, being at least a professional indemnity insurance policy, an employer’s liability insurance policy and a general liability insurance policy, each with a limit of not less than €1 million per claim and in the aggregate.
- 13.2 Insurance certificates. Within 10 (ten) Business Days of a written request by Keywords, Vendor shall provide Keywords with a copy of a certificate of insurance for any insurance policy held in accordance with Paragraph 13.1.

14. TRANSFER OF EMPLOYMENT

- 14.1 Application of the Transfer Regulations. The Parties do not intend that the Transfer Regulations will apply on, or as a result of, the commencement or termination of this Agreement (including any Statement of Work).
- 14.2 Employee claims. Vendor shall indemnify Keywords against all and any costs (including dismissal and severance costs), claims, demands, expenses (including legal and other professional expenses), losses, damages, compensation, penalties and other liabilities (including in relation to taxation and social security contributions) in relation to:
- (a) any persons whose employment or engagement actually transfers, or is alleged to transfer to Keywords, in accordance with, or by virtue of, the Transfer Regulations; and
 - (b) any claims in respect of which Keywords incurs liability as a result of the actual or alleged operation of the Transfer Regulations,

in each case in connection with this Agreement (including any Statement of Work).

15. TERM AND TERMINATION

- 15.1 Termination for breach. Either Party may terminate this Agreement, whether in whole or in part (including any Statement of Work) at any time by giving prior notice in writing to the other Party, if:
- (a) the other Party commits a material breach of this Agreement and such breach is not remediable;
 - (b) the other Party commits a material breach of this Agreement that is not remedied within 30 (thirty) days of receiving written notice of such breach; or
 - (c) if the other Party experiences an Insolvency Event.
- 15.2 Additional termination rights. Keywords may terminate this Agreement, whether in whole or in part (including any Statement of Work) at any time by giving prior notice in writing to Vendor, if:
- (a) Vendor challenges the validity of, or Keywords’ ownership of, any of the Keywords Background Rights or the Deliverables IPR;
 - (b) any of the Key Personnel resign or are dismissed from, or otherwise leave, their engagement with Vendor;
 - (c) a contract between Keywords and the Keywords Customer that relates to the Services is terminated for any reason;
 - (d) Vendor makes any defamatory or derogatory statements or engages in any conduct that, in the reasonable opinion of Keywords, is likely to harm or bring into disrepute the name, goodwill, reputation or image of Keywords, its Affiliates or any Keywords Customer; or
 - (e) in the circumstances set out in Paragraph 5.4(c).
- 15.3 Termination without cause. Keywords may terminate this Agreement, in whole or in part (including any Statement of Work), without cause and for convenience at any time by giving Vendor not less than 30 days’ prior notice in writing or, in the case of termination in part by Keywords of a single Statement of Work only, such shorter time period as may be specified in the relevant Statement of Work.
- 15.4 Return of materials. At any time upon receipt of a written request from Keywords or upon the termination of this Agreement, Vendor shall deliver up and/or destroy (at Keywords’ option) any and all copies of Keywords Materials, Deliverables and Keywords’ Confidential Information in its possession or control to the extent reasonably practicable.
- 15.5 Survival. The following Paragraphs of these Standard Terms shall survive any termination or expiration of this Agreement: 5, 7, 8, 9, 11, 12, 13, 14, 16, 17, 19, 20 and 21.

16. CONFIDENTIALITY

- 16.1 Confidentiality obligations. During the Term and for 5 (five) years after the termination of this Agreement for any reason, each Party shall:
- (a) keep all Confidential Information disclosed by the other Party confidential and not disclose such Confidential Information to any person other than its employees, directors, officers, representatives, contractors, subcontractors, professional advisors and those of its Affiliates on a need-to-know basis; and
 - (b) not use any Confidential Information for any purpose other than to exercise its rights and perform its obligations under this Agreement; and
 - (c) ensure that any person to whom the Party discloses Confidential Information under Paragraph 16.1(a) shall

comply with this Paragraph 16.1 and such Party shall be liable for any breaches by such persons.

16.2 Confidentiality exceptions. The provisions of Paragraph 16.1 shall not apply to:

- (a) any information that is in the public domain other than by breach of this Agreement;
- (b) information lawfully in the possession of the receiving Party before disclosure thereof by the disclosing Party;
- (c) information obtained without an obligation of confidentiality from a third party or created independently; and
- (d) information required to be disclosed by a court, governmental body or other competent authority.

17. NON-SOLICITATION

17.1 Non-solicitation of employees. Vendor shall not, without Keywords' prior written consent, whether as principal, employee, agent, consultant or otherwise, at any time either during the Term or during the period of 12 (twelve) months following the termination of this Agreement, directly or indirectly, solicit or endeavour to solicit away from Keywords or any Affiliate of Keywords or employ or engage or be directly involved in the employment or engagement of any person with whom Vendor has had dealings or personal contact (other than on a *de minimis* basis) in the course of providing the Services and/or Deliverables and who is at the date of termination of this Agreement, or was at any time during the period of 12 (twelve) months before the date of termination of this Agreement, employed or engaged by Keywords or an Affiliate of Keywords.

17.2 Non-solicitation of customers. Vendor shall not, without Keywords' prior written consent, whether as principal, employee, agent, consultant or otherwise, at any time either during the Term or during the period of 12 (twelve) months following the termination of this Agreement, in competition with any business of Keywords or any Keywords Affiliate, directly or indirectly, solicit or endeavour to solicit the custom of, or deal with or accept business from, any person, firm or company who at any time during the 12 (twelve) months prior to the date of termination of this Agreement was a customer of Keywords or any Keywords Affiliate (including any Keywords Customer) with whom or with which Vendor dealt or had personal contact other than on a *de minimis* basis.

18. DATA PROTECTION

18.1 Data Protection Laws. Each Party shall comply with the Data Protection Laws at all times.

18.2 Data processing. The Parties agree that apart from the sharing of administrative personal data required to give effect to the Agreement, the Parties do not anticipate any substantive sharing between the Parties, or processing by Vendor on Keywords' behalf, of personal data in connection with the Agreement. If this changes, the Parties agree to enter into an appropriate data sharing or processing agreement.

19. NOTICES

19.1 All notices shall be in writing and given by hand, registered post or email to a Party at the postal address and/or email address set out at the top of this Agreement or in the relevant Statement of Work (or such addresses as otherwise notified in writing from time to time in accordance with this Paragraph 19).

19.2 This Paragraph 19.2 sets out the delivery methods for sending a notice to a Party under a Statement of Work and the date and time when the notice is deemed to have been received or given (provided that all other requirements of this Paragraph 19 have been satisfied and subject to the provision in Paragraph 19.3):

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address;
- (b) if sent by registered post, at 9.00am on the second Business Day after posting; or
- (c) if sent by email, at the time of transmission.

19.3 If deemed receipt under Paragraph 19.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this Paragraph 19.3, business hours means 9.00am to 6.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

19.4 This Paragraph 19 does not apply to the service of any legal proceedings or other documents in any legal action.

20. GENERAL

20.1 Precedence. In the event of any inconsistency, the provisions of the Statement of Work shall take precedence over these Standard Terms and the Special Terms, and the provisions of the Special Terms shall take precedence over the provisions of these Standard Terms.

20.2 Assignment. Vendor may not assign or otherwise transfer the benefit of this Agreement to any third party without the prior written consent of Keywords.

20.3 Severance. If at any time any one or more of the provisions of this Agreement or any part of it is or becomes invalid, illegal or unenforceable under any law, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired.

20.4 Variation. The Parties may only vary a Statement of Work in accordance with Paragraph 4. No other variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

20.5 Entire agreement. This Agreement shall apply to the exclusion of all other terms, including any terms provided by Vendor to Keywords at any time in respect of the Services. This Agreement shall constitute the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges that it has not relied upon or been induced to enter into this Agreement by a representation, statement, warranty or understanding (whether negligently or innocently made) other than as expressly set out in this Agreement. Nothing in this Paragraph 20.5 shall exclude liability for fraudulent misrepresentation.

20.6 Standard Terms and Special Terms. These Standard Terms and the Special Terms included at Schedule 2 form part of the Vendor Services Agreement between Keywords and Vendor (including any Statements of Work). By signing the Agreement, or otherwise confirming its acceptance, the Vendor accepts the Standard Terms and any Special Terms.

20.7 No partnership. Nothing in this Agreement shall create a partnership or relationship of employer and employee or a joint venture between the Parties.

20.8 Inadequacy of damages. Without prejudice to any other rights or remedies that Keywords may have, Vendor acknowledges and agrees that damages alone would not be an adequate remedy for any breach of this Agreement by Vendor and Keywords shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach. The Parties agree that damages alone would be an adequate remedy for breach of this Agreement by Keywords and Vendor shall not be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach.

20.9 Third-party rights. This Agreement does not create any right enforceable by any person not a party to it, whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise, with the exception of the right for all Indemnified Parties to enforce an indemnity granted under Paragraph 12.

20.10 Counterparts. This Agreement may be executed in any number of counterparts each of which when executed and delivered shall be an original, but all the counterparts shall constitute the same instrument. Both Parties consent that this Agreement may be signed electronically, and such electronic signature shall be deemed valid.

21. GOVERNING LAW AND JURISDICTION

- 21.1 Governing law. This Agreement 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 English law.
- 21.2 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 this Agreement or its subject matter or formation.

