

## VICCARI WHEELLE LIMITED TERMS & CONDITIONS EDITION 2

1. In these Conditions:

1.1 the following definitions will apply where the context allows:

(a) "VWL" means Viccari Wheele Limited

(b) "Client" means the party to whom VWL has agreed in writing to provide Services under the Contract

(c) "Contract" means the agreement between VWL and the Client for the provision of the Services

(d) "Web Design Services" means the services of designing and developing the website(s) specified in the Contract or as may be subsequently varied or supplemented by subsequent agreement in writing by the parties

(e) "Hosting Services" means the services of hosting websites specified in the Contract or as may be varied or supplemented by subsequent agreement in writing by the parties

(f) "Additional Services" are any additional services the parties to the Contract agree VWL shall provide and any additional work VWL carries out in performing its obligations under the Contract as a result of any breach or default of the Client

(g) "Services" are the services specified in the Contract or as may be varied or supplemented by subsequent agreement writing by the parties

(h) "Client Website" means the website referred to as such in the Contract

(i) "Website Package" means in respect of any Client Website supplied by VWL to the Client in accordance with the Web Design Services a disk on which there will be a copy of the Client Website from which the Client will be able to access the codes the Client will require to operate the Client Website

(j) "Nominated Subcontractor" means the party specified in the Contract as such. "Relevant Subcontract" means the contract specified in the Contract as such and "Excluded Provisions" means the provisions of the Relevant Subcontract specified as such in the Contract.

(kl) "Business Day" means any day except Saturday or Sunday or a public holiday in England and "Business Hours" are between 9.00am and 6.00pm on Business Days

(l) "Force Majeure" means any cause or circumstance beyond the control of the person affected by same including (as examples and not by way of limitation) any of the following causes or circumstances namely acts of government or any regulatory

or local or public authority, war or other hostilities or civil disturbance, fire or explosion or flooding, inclement weather, failure of transport services or power or telecommunications lines, failure or breakdown of plant or equipment, suspension or interference with online access, non performance of suppliers and subcontractors and industrial action (official or unofficial)

(m) "IPR" means any means any right (including rights to apply and whether registered or unregistered) conferred anywhere in the world in respect of any patent, copyright, design right, registered design, trade mark or name or other intellectual property and all other rights which may subsist anywhere in the world in respect of confidential information and inventions

1.2 Words denoting the singular shall include the plural and vice versa; words denoting any gender shall include any other; "person" includes any person, firm, company or other legal entity; and words and expressions defined in the body of the Contract and these Conditions shall apply throughout the Contract and these Conditions

1.3 These Conditions shall apply to all Services except where these Conditions specifically provide otherwise

2.1 The Contract may be signed in more than one part and shall have effect from the date on which it has been signed by both VWL and the Client

3. VWL shall provide the Services in a professional manner using all reasonable care and skill and (subject to the Client complying with its obligations under the Contract) shall use reasonable endeavours to provide the Services during Business Hours or within any times specified in the Contract which shall be regarded as estimates and not of the essence

.1 The Client shall provide promptly to VWL (a) such assistance, information, facilities, consents and approvals VWL reasonably requires to carry out the Services and (b) at the Client's expense any third party consents and approvals in relation to any materials supplied or to be supplied by the Client under the Contract

.2 The Client agrees that any materials supplied by the Client or any third party for or on behalf of the Client shall not contain any defamatory or unlawful matter nor infringe the IPR of any third party nor contain any viruses or harmful matter

5.1 The Client shall pay VWL the following Fees and Expenses at the following times:

(a) For the Services the fees and expenses specified in the Contract at the times specified in the Contract or otherwise within 10 Business Days of the sending of VWL's invoice

(b) For Additional Services such fees and expenses the Client and VWL may agree otherwise at VWL's normal charge out rates applicable from time to time plus any costs and expenses properly incurred by VWL in providing Additional Services which

shall be paid at the times agreed by the Client and VWL or otherwise within 10 Business Days of the sending date of VWL's Invoice

5.2 Where any Services are broken down into separate elements (eg "deliverables") VWL may invoice separately for each element on completion of the work unless the Contract provides otherwise

.3 All Fees and Expenses are exclusive of any applicable Value Added or Sales Tax (which is payable additionally at the prevailing rate)

.4 If any such Fees or Expenses are not paid on the date same are due for payment ("Due Date") same shall carry interest at the rate of 10 per cent per annum from the Due Date until actual payment calculated on a daily basis

6A in relation to the Web Design Services:

6A.1 VWL confirms that the IPR in any unique design features VWL may create specifically for the Client Website under the Contract ("Client IPR") shall belong to the Client.

6A.2 VWL grants Client a non exclusive royalty free license in perpetuity right to use:

(a) any other features or components of the Client Website which will include third party materials (save as provided in condition 4.2) or any generic or background designs or technology (for example relating to the structure and functionality of a website) used or created by VWL in performing the Services ("Excluded Technology") for the "Agreed Purpose" . All IPR in the Excluded Technology are and shall remain the sole and exclusive property of VWL ( or any third party nominated by VWL) and the Client shall not use, transfer, grant any rights in respect of, modify, translate, adapt, merge, reverse engineer, decompile or create derivative works based on the whole or any part of the Excluded Technology. The Agreed Purpose shall mean the purpose defined as such in the Contract but otherwise use in the Client Website in connection with the principal business of the Client but not (for the avoidance of doubt) the provision of services of the kind provided by VWL under the Contract

(b) any pictures or images comprised in the Client Website supplied by VWL on such website except as specifically provided by the Contract

6A.3 Nothing in the Agreement shall prevent (and VWL shall be entitled to use) any materials comprised in the Services (except materials comprised in Client IPR) for providing similar services to other persons

6A.4 Where performance of the Contract requires the use of the Contract provides for the use of any third party materials in the provision of the Services (except materials to be supplied by the Client under Condition 4.2) VWL shall be responsible at its expense for obtaining the right to use such materials for the purposes of the Contract and all consents and approvals relating thereto

6A.5 VWL will with the supply of any website comprised in the Web Design Services supply the Web Package relating to that website

6B In relation to the Hosting Services:

Subject to these Conditions VWL shall supply the Hosting Services on the same terms and conditions as apply to the supply of such services by the Nominated Subcontractor to VWL under the Relevant Subcontract except the Excluded Provisions.

7 Each party to the Contract agrees with the other party to keep the other's Confidential Information secret and confidential and not to disclose it to any other person nor use it except for the due performance of the Contract. "Confidential Information" of a party shall mean any information which is by its nature clearly confidential or reasonably identified by the proprietor of same as such and includes the provisions of the Contract and (as regards VWL) any information comprised in or relating to the Excluded Technology but not information which is or subsequently becomes generally available to the general public other than through a breach of contract or negligence of the other party or is lawfully obtained by the other party from another person without restrictions as to its use

8 Neither VWL nor the Client shall assign or sub-contract any of its rights or obligations under the Contract without the prior written consent of the other (which shall not be unreasonably withheld) save that VWL may subcontract the provision of Services to a Nominated Subcontractor or other suitably qualified subcontractors on terms that VWL will remain liable to the Client for any breach of the provisions of this Agreement by any such sub-contractor

9.1 The Contract contains the whole contract between the VWL and the Client relating to its subject matter and supersedes and excludes all prior negotiations, representations and agreements relating to same and any forms of contract or terms and conditions submitted by the Client and no variation of the Contract shall be effective unless agreed in writing by the parties to the Contract

.2 If there is any conflict between the provisions of the Contract and these Conditions the provisions of these Conditions shall prevail except as specifically provided (and by reference to the relevant condition) in the Contract

.1 Neither VWL nor the Client shall have any liability to the other for any delay in performing or failure to perform its obligations under the Contract as a result of Force Majeure

.2 In the event of any defect or omission in or malfunction or failure of the Services ("Fault") and such Fault results from a breach of the Contract or negligence by VWL then VWL shall during the Relevant Liability Period use reasonable endeavours during Business Hours to rectify the Fault and as soon as reasonably practicable after the Fault has been reported to it by the Client but subject to this shall have no liability to the Client for any Fault . The "Liability Period"

in relation to the Web Design Services shall be twelve months from the date the Client Website is first fully operational and in relation to the Web Hosting Services shall be the continuance of the Contract relating thereto

10.3 VWL may suspend the Services in respect of the Client Website to carry out site repairs or maintenance or any updating or changes to same

10.4. VWL shall not be liable for any loss of business or profits, increased costs, loss of savings or special, indirect or consequential loss suffered by the Client as a result of any breach of any obligation to the Client by VWL in relation to the subject matter of the Contract and the total liability of VWL to the Client for any breaches of obligation shall be limited (a) in the case of the Web Design Services to the to the fees paid by the Client for such services and (b) in the case of the Hosting Services in any year to the total annual fees payable by the Client to VWL in that year. This condition shall not apply to limit any liability for death or personal injury caused by VWL's negligence

10.5 All warranties, conditions and other obligations relating to the performance by VWL of its obligations under the Contract imposed or implied by state or otherwise are excluded to the maximum extent allowed by law

11 The Client contracts with VWL as a principal at law and no other person shall have any right hereunder to benefit from or enforce any provisions of the Contract. Obligations which are expressed or intended to remain in force after the expiry or termination of the Contract shall remain in force as specified or otherwise without limit in time

12.1 Either VWL or the Client may terminate the Contract by immediate written notice if the other fails to make any payment to the other within 14 days of the Due Date; or commits a material breach of the Contract and (if remediable) on being given written notice of breach fails to take prompt and effective action to remedy the breach; or ceases to carry on business normally; or goes into liquidation receivership or administration or suffers an analogous process provided that the expiry or termination of the Contract (for whatever reason) shall not affect any rights or liabilities which have accrued prior to termination nor affect any provisions which are expressed or intended to continue in force following expiry or termination.

.2 VWL may suspend provision of the Services (and if VWL so elects time shall be extended accordingly) at any time the Client shall not have made any payment due to VWL by the Due Date or is otherwise in breach of contract

13. All notices and other communications required under the Contract shall be deemed to be duly given if delivered by messenger during Business Hours when delivered or if posted by prepaid certified, recorded or registered mail to the Relevant Address of the recipient within two Business days of posting or if transmitted by email to the Relevant Email Address of the recipient when sent if sent during Business Hours otherwise on the next Business Day of the date when sent. The Relevant Address and Email Address of each party to the Contract are as set out in

the Contract or such substituted details as such party shall specifically notify to the other in writing from time to time for this purpose.

14. The Contract shall be governed by and construed in accordance with English Law and each party to the Contract hereby agrees to submit to the exclusive jurisdiction of the English Courts as regards any claim, dispute or other matter arising under or by reference to the Contract