

Terms of Business

1. Service and Suppliers

- 1.1. We shall use our best endeavours to ensure that any Supplier is competent to carry out the Services to a proper standard, however, we shall not be liable if the Supplier's performance falls below the expectations of the Client.
- 1.2. We shall provide you with the Services as set out in the Terms of Contract or as agreed in subsequent email correspondence between us.

2. Responding to Client Requests

- 2.1 We will respond to each Request within 24 hours of receiving it.
- 2.2 If we are unable to deal with a Request, we will inform you as soon as reasonably possible.
- 2.3 Our normal office hours are 9.30am to 4.30pm Monday to Friday (excluding Bank Holidays). If, under your instruction, we carry out a Request out of hours, we reserve the right to charge additional hourly rate of £35 per hour.
- 2.4 We reserve the right to refuse to carry out Requests or source Services if, in our opinion, the Requests or Services are unreasonable or to be used for any immoral or unlawful purpose.

3. Our Charges

- 3.1 Our Charges are subject to change subject to us first providing 30 days written notice to you.
- 3.2 Any payment we make on your behalf for purchases shall be paid by you (without any set off, counterclaim or other deduction).
- 3.3 A late payment charge of 2% per month of the total Charge will be payable by you should payments not be received by us within 7 days of the invoice date.
- 3.4 If you cancel any Request and Positive VA Solutions has already incurred expenses in connection with this, we will be entitled to recover such sums from you.
- 3.5 Fees for our retainer packages are to be found on our website. They are to be paid monthly (in advance), before work commences.
- 3.6 Any hours included in a retainer that are not used in the month they are charged may be carried over up to the end of the following month, but must be used within that time period (and if not used will still be charged).
- 3.7 All of the time that we spend working on the Services, including without limitation research, administration and communication (whether by telephone, email, fax or otherwise) will be chargeable at the applicable hourly rate or included in the retainer hours (as the case may be).
- 3.8 We reserve the right to charge you a deposit on account of the charges, the amount of the deposit to be at our discretion.
- 3.9 We reserve the right to increase the hourly rate on an annual basis.

4. Liability

- 4.1 You agree that we may communicate with you by email sent without encryption over the internet. We shall not be responsible for any loss or damage arising from unauthorised interception, re-direction, copying or reading of emails, including any attachments, nor shall we be responsible for the effect on any computer system (or any loss or damage arising from any such effect) of any emails, attachments or viruses which may be transmitted by this means.
- 4.2 We will not be liable under this agreement for any loss or damage caused by us or our employees or agents in circumstances where i) there is no breach of a legal duty of care owed to you by us or by our employees or agents; ii) such loss or damage is not a

reasonable foreseeable result of any such breach; iii) any increase in loss or damage resulting from the breach by you of any term of this agreement.

- 4.3 We shall have no liability to you for any loss, damage, costs, expenses or other claims for compensation arising from Requests or instructions supplied by you which are incomplete, incorrect or inaccurate or arising from their late arrival or non-arrival, or any other fault by you.
- 4.4 We shall not be liable or be deemed to be in breach of these terms by reason of any delay in performing, or any failure of, any of our obligations in relation to the Services, if the delay or failure was due to any cause beyond our control.
- 4.5 While we endeavour at all times to ensure the accuracy of the completed work supplied to you, it is your responsibility to verify its accuracy upon receipt and we shall not be liable for any inaccuracies or any losses directly or indirectly arising from such inaccuracies. Where possible, we will attempt to rectify any errors notified to us within 7 days of completion.
- 4.6 You agree to provide us with full access in order to rectify inaccuracies.
- 4.7 We shall not under any circumstances be liable for any consequential or indirect loss of any type suffered by you. Our total liability to you, whether in contract or otherwise, shall be limited to the price paid for the Services in the 12 months preceding any settlement or adjudication of any claim.
- 4.8 Nothing in these terms and conditions excludes our liability for death or personal injury caused by our negligence or for fraud or fraudulent misrepresentation or for any other liability which cannot be excluded or limited by applicable law.
- 4.9 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

5. Termination

- 5.1 We shall be entitled to terminate the provision of the Services in any of the following circumstances by serving 14 days written notice on you:
- 5.1.1 if you commit any breach of any of these Terms and Conditions; or
- 5.1.2 if you fail to pay monthly charges or any other monies due to us within seven days of the due date; or
- 5.1.3 an order is made, or a resolution is passed for your winding up, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order against you; or
- 5.1.4 an order is made for the appointment of an administrator to manage your affairs, business and property, or documents are filed with a court of competent jurisdiction for the appointment of an administrator, or notice of intention to appoint an administrator is given by you or your directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 5.1.5 a receiver is appointed of any of your assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager, or if any other person takes possession of or sells your assets; or
- 5.1.6 you make any arrangement or composition with your creditors, or make an application to a court of competent jurisdiction for the protection of your creditors in any way, or become bankrupt; or
- 5.1.7 you cease, or threaten to cease, to trade; or
- 5.1.8 you take or suffer any similar or analogous action in any jurisdiction in consequence of debt.
- 5.2 Where we are providing Services on a monthly retainer basis, either party may terminate the Contract by providing the other party with 30 days' written notice.
- 5.3 On termination for any reason whatever, you shall immediately make payment to us of all and any sums outstanding and owing under these conditions (including charges and any outstanding balance) and we shall provide information and suggestions in response to all outstanding Requests made by you prior to termination.

- 5.4 Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.
- 5.5 We will not be obliged to retain documents and information or any other materials provided by you to us after termination of the Contract and we accept no liability or responsibility for any loss or damage caused by our failure to retain files and/or documents after such termination and are authorised by you to destroy the files and/or documents after such time.
- 5.6 After completion of the Services, you agree that we shall be entitled to retain and use for our own purposes copies of all documents created or used by us during the provision of the Services unless they contain confidential or sensitive information.
- 5.7 You agree that we shall be entitled to retain all files and documents created or used by us during the provision of the Services until our fees and disbursements have been paid in full.

6. Privacy Policy, Data Protection and Data Processing

- 6.1 Our Privacy Policy sets out in detail how we gather, control and process Personal Data and the terms of our Privacy Policy shall apply to this agreement. A copy of our Privacy Policy can be accessed here https://6e2f8657-54a5-4570-97a3-4f66ff40fcf3.filesusr.com/ugd/74f4ce_769dbad5ef87411184cee51a3d7502ef.pdf. By agreeing to enter into this agreement you agree to the terms of our Privacy Policy.
- 6.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 6.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Client is the Data Controller and we are the Data Processor and, where applicable, in some instances we are also the Data Controller (where 'Data Controller' and 'Data Processor' have the meanings as defined in the Data Protection Legislation).
- 6.4 Without prejudice to the generality of clause 6.1, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to us for the duration and purposes of the Contract.
- 6.5 Without prejudice to the generality of clause 6.1, we shall, in relation to any Personal Data processed in connection with the performance by us of our obligations under the Contract:
 - 6.5.1 process that Personal Data only on the written instructions of the Client unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process Personal Data (Applicable Data Processing Laws). Where we are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit us from so notifying you;
 - 6.5.2 ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - 6.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and

- 6.5.4 not transfer any Personal Data outside of the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:
 - 6.5.4.1 you or we have provided appropriate safeguards in relation to the transfer;
 - 6.5.4.2 the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - 6.5.4.3 we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - 6.5.4.4 we comply with reasonable instructions notified to us in advance by the Client with respect to the processing of the Personal Data;
 - 6.5.4.5 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 6.5.4.6 notify you without undue delay on becoming aware of a Personal Data breach;
 - 6.5.4.7 at your written direction, delete or return Personal Data and copies thereof to you on termination of the agreement unless required by Applicable Data Processing Law to store the Personal Data; and
 - 6.5.4.8 maintain complete and accurate records and information to demonstrate our compliance with this clause 6.
- 6.6 The Client consents to us appointing ICO (Information Commissioners Office) as a third-party processor of Personal Data under the Contract. We confirm that we have entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between you and us, we shall remain liable for all acts or omissions of any third-party processor appointed by us pursuant to this clause 6.

7. Intellectual Property

- 7.1 As between us and you, all Intellectual Property Rights and all other rights in any materials provided by us shall be owned by us. We licence all such rights to you on a non-exclusive basis only to such extent as is necessary to enable you to make reasonable use of the Services.

8. Assignment and subcontracting

- 8.1 We may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under the Contract and may subcontract or delegate in any manner any or all of our obligations under the Contract to any third party or agent.
- 8.2 You shall not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under the Contract.
- 8.3 During the term of this Agreement or for twelve months thereafter, the Client may not, directly or indirectly retain the services (whether as an employee, independent contractor or otherwise) of any person from the Supplier who has provided services to the Client on behalf of the Supplier.

9. General

- 9.1 These Terms of Contract and Terms & Conditions (together with any other terms and conditions agreed in writing between us and you from time to time) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except on notice from us.
- 9.2 A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by

a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- 9.3 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between us, nor constitute either of us the agent of another party for any purpose. Neither of us shall have authority to act as agent for, or to bind, the other in any way.
- 9.4 A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 9.5 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in parts, the validity of the other provisions of these conditions will still stand.
- 9.6 We shall be entitled to alter and vary these conditions from time to time on reasonable written notice to you without any liability to you.
- 9.7 The Contract constitutes the entire agreement between us. You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in the Contract.
- 9.8 This agreement shall be governed by and construed in accordance with English Law and the parties submit to the non-exclusive jurisdiction of the English Courts.