



Terms and Conditions of Business

1. Introduction

1.1 These terms and conditions constitute the entire terms and conditions upon which Shaw provides the Service and upon which the Customer agrees to contract for the use of the Service.

1.2 This Agreement supersedes any written or oral representations, statements, understandings or agreements, except where specifically varied by written agreement by Shaw.

1.3 By placing an order for the Service, you, the Customer, confirm your acceptance of the terms of the Agreement.

1.4 In the event of any conflict between the Agreement and any other document, the Agreement shall prevail.

Definitions

In this Agreement;

“Agreement” means these terms and conditions together with the Order Confirmation.

“Approval Process” means post sign off, of the Brief Document, or post the Work commencing, the Customers instruction to Shaw to make changes or amendments to the Service using where applicable the Changes Control Document.

“Brief Document” or **“Briefing Document”** means the initial interpretation of the Work, based upon the Quotation Document, outlining the functionality and listing a work schedule, with regards the need for this document; Shaw will be the sole arbiter of this issue.

“Changes Control Document” (CCD form) means the document which captures and records all Customer instructions including on-going Customer requests for project changes and amendments, to the Services to ensure management.

“Completion of Work” means the conclusion of Work delivered by Shaw, post development stage and project completion where the Customer assumes responsibility, as confirmed by Shaw and as described in the Order Confirmation.

“Consultancy and Training Services” means provision of consulting and training Services relevant to the Service deployed by Shaw more fully described in the Order Confirmation.

“Contract Price” means the total of all charges (calculated by hourly rate, daily rate, monthly rate, or fixed priced) for the Service to be provided under this Agreement as set out in the Order Confirmation.

“Customer Pricing Policy” means the pricing structure first agreed and subject to amendment after the Service has commenced based on the actual workload and complexity of the work carried out by us.

“Digital Signature” means an electronic signature that allows the Customer to instruct Shaw to carry out Work.

“End User” means the Customer’s client is the user or end user of the Service.

“End User Responsibilities” means the Customers responsibilities to communicate to the End User the responsibilities outlined in this agreement with regards the use and treatment of the Service.

“Inspection” means the process where the Work is assessed by Shaw conducting a review of the Work and ensuring the Work is identical to the Work carried out as described in the Brief Document.

“Intellectual Property” means any content, design, patent, invention, software, computer code, copyright, database right, registered or unregistered design, scripts, trademark (whether registered or unregistered), trade name, logo, trade secrets, know-how or other industrial or intellectual property right subsisting anywhere in the world, and applications for any of the foregoing, together with the goodwill thereon.

“Keyword Report” means the keywords chosen by Shaw for usage when delivering SEO Services. With regard to the research and choice of words used; Shaw is the sole arbiter of this issue.

“Live” means the Services (web or development services) provisioned by Shaw is now live and accessible over the Internet and made available to the Customer by Shaw for real usage.

“Material Change” means significant change(s) to the objectives, methods or extent of the Work as set out in to the Brief Document, in respect of which Shaw will be sole arbiter. Any changes deemed to be a Material change will be subject to further quotation.

“Minor Changes” means changes carried out by Shaw which are part of the Brief Document and is not classified as a Material Change and will not require a further quotation and does not excess 15 minutes of time to complete more fully described in the Order Confirmation.

“Out of Hours” means Support Services offered to the Customer outside the hours of 9.00 to 5.30pm, Monday to Friday and charged at a different hourly rate.

“Project” means the current Work provisioned by Shaw.

“Quotation Document” means pre-contract information provided by you to allow Shaw to provide an accurate quotation; the information provided by the initial interpretation of the Work you will be required by Shaw to deliver the Service.

“Reporting” or “Reports” means the detailed reports created by Shaw outlining details of the Work carried out (part of Consultancy Services). The style, approach and methodology used is the choice of Shaw, who shall be the sole arbiter with regard to this issue.

“Service Level Agreement” means the additional document that will outline the bespoke service level or additional (Support) agreed with the Customer and outlined in the service level agreement.

“Shaw” or “we/our/us” means Shaw Marketing and Design Ltd, a company registered in Scotland (company registration number SC097135), registered at 84 Commercial Street, Leith, Edinburgh EH6 6LX.

“Sign Off” means the Customer’s instruction to Shaw to proceed with agreed stages of the Work as set out in the Order Confirmation.

“Subscription Services” means the option to pay for Services via Direct Debit; this is at the election of Shaw, who is the sole arbiter of this issue.

“Support” means the additional support offered to the Customer to commence after Completion of Work.

“the Customer” and **“You / Your”** means the company, firm, person, persons, corporation or public authority identified in the Order Confirmation as contracting for the Service and includes their successors or personal representatives.

“the Order Confirmation” means the email or letter sent to the Customer by Shaw which sets out details of the Service to be provided, price, completion date (if any) and such other specific contractual terms as may be appropriate.

“the Service” means the provision of Marketing Services including design, web and development services and in addition the supply of consultancy (Reporting) and Support services where applicable (together or individually known as **“Work”**), all as fully described in the Order Confirmation.

"the Service Commencement Date" shall be the date the Service is available as set out in the Order Confirmation.

"Working Day" means within the hours of 9.00am to 5.30pm, Monday to Friday only, not including bank or statutory holidays;

"Writing" includes any written paper document, any fax and any email correspondence.

2. Accountant Management Services

2.1 Shaw will provide email support for customer enquiries via the standard Service will include;

2.1.1 all Customer queries to be responded to within 8 hours of the initial Customer contact.

2.1.2 the resolution time will depend upon the complexity of the Customer issue; however, we will endeavour to resolve the problem as soon as is necessary.

2.1.3 support Services will be generally available between 9.00am and 5.30pm, Monday to Friday (excluding weekends and public holidays).

2.2 Unless otherwise stated on the Order Confirmation, we offer weekly and monthly account management telephone based meetings available between 9.00am and 5.30pm, Monday to Friday (excluding bank holidays).

2.3 Where a Customer instruction is placed orally, in the event of any dispute as to the instruction given, Shaw's version shall be deemed as the authoritative instruction, unless otherwise confirmed in writing.

2.4 Unless otherwise agreed, all Project communication will be discussed on a Weekly or a Monthly basis at the election of Shaw. In the event there is a project team in place to engage with Shaw, the Customer should collate all project communications to be discussed at the weekly or monthly meetings; all project communications are conducted by telephone (telephone number to be issued to the Customer at the time of the Project) or face to face (at the election of Shaw).

3. Service provision

3.1 Shaw will provide an Order Confirmation for all orders accepted but reserves the right to accept or reject any order.

3.2 Where instruction is placed orally or in the event of any dispute as to the Order, the Order Confirmation shall be deemed as the authoritative Order.

3.3 Shaw will use all reasonable endeavours to provide the Service as described in the Order Confirmation.

3.4 Shaw may at any time amend the Service for any reason including, but not limited to, technical, legal or business reasons.

3.5 Any dates quoted for delivery of Services are approximate only and we shall not be liable to you for any delay in delivery of Services howsoever caused. Time for delivery shall not be of the essence unless stated on the Order Confirmation.

3.6 The Customer is responsible for ensuring a comprehensive feedback in terms of clause 4.2 hereunder. Shaw shall carry out minor changes requested by the Customer to aspects of the Service following Completion of Work, however in the event that the Customer requires a Material Change (in respect of which Shaw shall be sole arbiter) to any aspect of the Service, additional charges may be payable by the Customer.

3.7 Due to the nature of the Service, no refund is offered by Shaw.

3.8 Unless otherwise stated, the contract duration will be based upon the length of the project or based upon a 30-day contract period and continues on a 30-days rolling contract basis thereafter, fully described in the Order Confirmation.

3.9 The Customer accepts that Shaw has no responsibility in any way with regards to any third-party funding arrangements. The Customer will be liable to pay the Contract Price stated on the Order Confirmation.

4. Customer Obligations

4.1 The Customer shall pay the charges for the Service in accordance with clauses 8, 9 and 10 below.

4.2 The Customer is responsible for providing a satisfactory level of cooperation and for providing all necessary project information and facilities to enable Shaw to produce and deliver a quality Service, including;

4.2.1 notifying us if you are unhappy with work carried out within 7 days of "Completion of work".

4.2.2 investment of necessary time to provide a comprehensive feedback regards each stage of Sign Off including the 'Briefing Document'.

4.2.3 adhere to the (Design Process) Sign Off, where the scope of the Work is limited to a maximum of 3 proofs. In a case where more proofs are required, the Work shall be classed as additional Work and will require a quotation.

4.2.4 digital signature where applicable (Note: the Customer must be aware by signing the document in this manner they will be entering into a binding agreement; we recommend the Customer uses a certification Service provider when using digital signature technology).

4.2.5 Sign Off where applicable.

4.2.6 provision of correct project information, for example, correct point of contact details, access requirements, and all other relevant details to Support the process.

4.2.7 where applicable 'backing up' all their own data, files and business and Customer information.

4.2.8 where applicable installing software that is necessary in order to access the Shaw Services, including but not limited to, Web Browser Software, as recommended by Shaw. The Software is installed and maintained by you at your risk.

4.2.9 adhering to the Customer Pricing Policy.

4.2.10 approval process when requesting changes and amendments, to take place in writing including email instruction and the CCD.

4.2.11 where applicable to supply log-in details before the Brief Document is submitted within 5 days of contracting with Shaw.

4.3 The Customer will be responsible for obtaining and holding all consents, licences, permits and other similar instruments applicable to material it supplies to Shaw for incorporation into the Work, including without limitation copyrights, trademarks, artworks, patents and all such similar instruments.

4.4 The Customer warrants and represents to Shaw that any element of text, graphics, photos, designs, trademarks or other material supplied to Shaw for inclusion in the Work are owned by the Customer, or that the Customer has permission from the rightful owner to use each of these elements and that Shaw's use of such material shall not infringe the intellectual property rights of any third-party.

4.5 Without prejudice to its rights in terms of Clause 12 hereof, Shaw is entitled to suspend or terminate the Customer's use of the Service if the Customer fails to comply with any of its obligations under this Clause 4.

4.6 If the case of third-party involvement including existing Customers suppliers or suppliers nominated by the Customer, the Customer agrees and undertakes to ensure that all necessary information is communicated to all parties involved in the project or work to be carried out. Shaw is not responsible for briefing all parties unless stated in the Order Confirmation.

4.7 The Customer is responsible for gaining permission to use Intellectual Property not owned by the Customer. Shaw takes no responsibility for such undertakings.

4.8 In the event of the Customer ordering directly from third-party parties, Shaw is not responsible for renewing Services.

4.9 If delivery of the Service is impeded or delayed by the Customer, his contractors or third parties so as to change the scope or duration of the Services, Shaw shall advise the Customer of the effects including any increase in the Service charges and the Agreement shall be modified to reflect such changes.

4.10 The Customer will not request or permit anyone other than Shaw to modify or interfere with the Services provided unless stated in the Order Confirmation.

4.11 Shaw must be kept informed of any upgrades or third parties updating systems or software that may affect the Services provided including WordPress upgrades.

4.12 Consultancy and Training Services are subject to the following additional terms and Conditions:

4.12.1 the Customer is responsible for ensuring attendance numbers and no reduction in the Contract Price will be made due to a fewer number of attendees being trained than has been confirmed on the Order Confirmation.

4.12.2 where the Customer has contracted for Consultancy and Training Services; the Service will only cover Services originally agreed at the time of contract and further work is subject to quotation more fully described in the Order Confirmation.

4.12.3 to cancel Consultancy and Training Services the Customer must notify Shaw no later than 7 days prior to commencement of Services and will incur 50% of the contract price. Where notice of cancellation is less than 7 days prior to commencement of Services, the Customer will incur full contract price. Payment will be due from you to us within 30 days of cancellation.

4.13 Shaw will only provide Services as described in the Order Confirmation.

4.14 The Customer will be responsible for accepting all recommendation made by Shaw, this includes all Keywords (part of Keyword Report) and suggesting third-party suppliers.

4.15 In the event of the Customer ordering directly from third-parties, Shaw is not responsible for delivery of such services.

4.16 Where applicable, the Customer acknowledges and confirms they understand their End User Responsibilities and agrees to be bound by such terms outlined in this Agreement.

5. Hosting and Domain Name Services

5.1 Where the Customer has acquired hosting and domain services from Shaw, as set out in the Order Confirmation, Shaw will continue to provide

such Services at the end of the 12-month initial period for a further 12-month period unless otherwise agreed and instructed in writing one month before the end of such 12-month rolling period. Shaw will continue to provide services until otherwise instructed including the Customer's failure to respond.

5.2 Shaw will endeavour to make contact 30 days before the renewal period to review the Service.

5.3 In the event the Customer purchases domain name services from Shaw, the Customer must be aware that domain names carry a variety of contract durations; for example.co.uk domain names, the minimum contract term is 24 months.

5.4 Where the Customer has purchased hosting or domain services from third-party supplier; unless otherwise agreed, Shaw will not be responsible for any issues connected with these services and the Customer will be liable for any additional cost incurred by Us to deliver Shaw Services.

5.5 Migration Services are subject to the following additional terms and Conditions:

5.5.1 With regard to the Shaw Migration Services, the Customer is responsible for backing-up of all their personal and business data. The Migration Service is subject to quotation from Shaw. Shaw take no responsibility for any loss of Data during the Service being delivered.

5.6 The Customer must have cleared all outstanding payments owed to Shaw before the Migration Services can be completed

5.7 The details of the Customers Support Services will be recorded in the Service Level Agreement which is additional to Clause 5. Shaw will be the sole arbiter of this issue.

6. Changes

6.1 Should the Customer require a change in the nature, scope or timing of the Service or in or any other aspect of this Agreement, such change shall be requested in writing. Shaw shall advise the Customer of the effects including any increase in the Service charges which may result and the Agreement shall be modified to reflect such changes including to the Service charge and/or duration which may be agreed.

7. Indemnification

7.1 The Customer shall indemnify Shaw and keep Shaw indemnified against any liability to any third-party arising out of or connected with the Customer's use of the Service.

7.2 The Customer hereby indemnifies Shaw against all claims, demands, losses, damages, costs or expenses howsoever arising incurred by Shaw in connection with the Agreement as a result of a breach by the Customer of any provision of this Agreement, law or regulation and/or as a result of any third-party legal action or threatened action in relation to Intellectual Property rights infringement whatsoever and howsoever arising. Without prejudice to the foregoing generality the Customer indemnifies and holds harmless Shaw from any and all claims, demands, losses, damages, costs or expenses arising out of the Customer's failure to obtain copyright or other Intellectual Property rights or other releases or permissions with respect to any materials supplied to Shaw.

8. Service charges

8.1 Charges shall be based upon the Customer paying a Contract Price. The prices charged shall be those stated on the Order Confirmation.

8.2 Where applicable, charges for third-party expenses will be invoiced by Shaw and paid by the Customer prior to the Service being delivered.

8.3 Payment by the Customer shall be made by bacs; faster payment; or direct debit, at the election of Shaw and as confirmed in the Order Confirmation.

8.4 Shaw will not be held responsible for any delay to the Service where payment is not received pursuant to clause 8.1 hereof. Subsequently in certain circumstances expediting of Service delivery following late payment may incur additional costs due to be payable by the Customer.

9. Terms of Payment (Subscription Services)

9.1 With regard to payments agreed through Shaw's subscription Services, all payments are to be made on the 1st of the month and every month thereafter for the duration of the subscription Services as set out in the Order Confirmation.

9.2 Without prejudice to the foregoing, all charges for subscription Services are non-refundable in the event of early cancellation by the Customer.

9.3 Payments for Subscription Services will be by Direct Debit unless otherwise agreed on the Order Confirmation.

9.4 In the event that Customer misses a direct debit payment, Shaw reserves the right to charge the Customer an admin fee of £25.00 to reinstate the direct debit. If the Customer continuously fails (more than once) to make subscription payments, Shaw will be due the full amount outstanding by the Customer within 7 days of date of invoice.

9.5 Subscription Services will only cover Services originally agreed at the time of contract and further work is subject to quotation more fully described in the Order Confirmation.

10. Terms of Payment

10.1 Subject to any special terms which we may agree with you in the Order Confirmation or otherwise in writing, payment by you to us will be made within 14 days of the date of each invoice issued by us to you. Unless otherwise agreed, charges shall be based upon the Customer paying an agreed percentage of the estimated Work value upfront upon our acceptance of the Customer's order and the remainder payable in staged payments ensuring the Contract Price fully paid before Completion of Work. Please note the initial work will only commence when the initial payment has cleared.

10.2 Time of payment shall be of the essence of the Agreement. You shall not be entitled to off-set or withhold any payment for any reason whatsoever. Subsequently, in certain circumstances expediting of Services delivery following late payment may incur additional costs due to be payable by the Customer. No refunds are offered to the Customer at anytime.

10.3 If you fail to make payment within the period specified in clause 10.1 then, without prejudice to any other right or remedy available to us, we shall be entitled to;

10.3.1 suspend any further Service provision to you and/or suspend performance of the Services; and/or

10.3.2 cancel the Agreement; and/or

10.4 The Customer shall not be entitled by reason of any off-set, counter-claim, abatement, or other deduction to withhold payment of any amount due to Shaw. The Customer shall not withhold payment for any reason. The Customer agrees not to withhold payment for Work or Projects being delayed and agrees to adhere to the terms set out in this Agreement.

10.5 In the event that the Customer's cheque is returned by the bank as unpaid for any reason, Shaw reserves the right to charge the Customer an admin fee of £25.00.

10.6 If you are late in making a payment under this Agreement for 30 consecutive days or more, we reserve the right to pass your Customer Agreement to a reputable debt recovery company and you shall reimburse us on demand for all costs, expenses and losses associated therewith (including lost profit) or enter the court process to recover payments due if necessary.

10.7 In the event that the Customer prematurely cancels the Agreement or any portion thereof, Shaw shall be entitled to 100% of the Contract Price

more fully described in the Order Confirmation, at the sole discretion of Shaw.

11. Support (Technical)

11.1 We will for the duration of this Agreement and is only applicable after the Work or Project goes Live (Live Project);

11.1.1 endeavour to achieve a response time of 6 hours for Support requests unless otherwise agreed in the Order Confirmation; however, the response time may alter if a Customer site visit is required. Support will be available between 9.00am and 5.30 pm, Monday to Friday (excluding public holidays).

11.1.2 the Customer is required to submit requests for Support (Technical) via e-mail in a timely manner.

11.1.3 the fix time will depend upon the complexity of the issue; however, we will endeavour to resolve the problem as soon as is necessary (time not being of the essence).

11.2 The following items are excluded from the Shaw Support Services including:

11.2.1 any hardware used by the Customer.

11.2.2 any software or services used to access the Service that has been provided by the Customer or a third-party.

11.2.3 any issues arising from the Customer using Services in a way that is not supported or recommended by Shaw.

11.2.4 any issue arising as a result of the Customer or a third-party altering, modifying or in any way changing the Service.

11.2.5 in the event the Customer or a third-party has made unauthorised changes to Shaw's Services.

11.2.6 Where applicable, the Customer has prevented Shaw from performing required support or updates to the Service.

11.3 Shaw will not be required to provide Support if the Customer is in breach of its contract for any reason including failure to make any payment due to Shaw.

11.4 Shaw is deemed to have responded when it has made contact with the Customer after the customer makes initial contact through email on technical@shaw-online.com. The Shaw response may be in the form of an email or telephone call.

11.5 Shaw will endeavour to respond and resolve issues as quickly as possible. We recognise the importance of Service availability to our Customers. However, we are unable to provide guaranteed resolution times, due to the nature of the Service provided.

11.6 Where the Customer has contracted for a different level of Support from Shaw, such bespoke support will be chargeable and will be set out in writing and recorded in the Service Level Agreement and will be agreed with the Customer prior to any commencement of Services.

11.7 Due to the nature of the Services to be provided, no refund is offered by Shaw.

12. Termination

12.1 Shaw shall be entitled to suspend or to terminate the Service in accordance with clause 10.3 hereof.

12.2 Without prejudice to any other rights to which it may be entitled, Shaw or the Customer may terminate this Agreement by written notice if the other party commits any material breach of any of the terms of the Agreement and the breach remains un-remedied after thirty days of the defaulting party being notified by the other party of the breach and of the other party's intention to terminate unless the breach is remedied.

12.3 Shaw may terminate provision of the Service immediately if the Customer takes or suffers any action on account of debt or is insolvent or apparently insolvent.

12.4 Shaw will not tolerate duplicity, deceit or pretence regards the parties involved with the Services provided, or in any way abusing the Service, reserving the right to terminate Services as a result of such behaviour.

13. Warranty

13.1 With regards to all design and development work, Shaw will, free of charge within a period of 7 days from the date of Completion of Work (Live Project), subject to an Inspection; with respect to Work which in each case is proven to the reasonable satisfaction of Shaw to not comply with the specification due to defects in design or development (other than specified in the Brief Document); will amend such Work. This obligation will not apply where:

13.1.1 the Work has been altered or tampered with in any way whatsoever, or has been subject to misuse or unauthorised amendment.

13.1.2 the Customer has failed to communicate to Shaw any change or upgrade to their software that may affect performance or access to the Work; including but not limited to; internet browser, operating system, firewall, and internet connection.

13.1.3 any Support requirements relating to the Work has not been complied with; or

13.1.4 the Customer has failed to notify Shaw of any defect or suspected defect within seven days (7) of Completion of Work.

13.2 The Inspection of the Work is free of charge to the Customer if any fault lies with Shaw. However, should the Inspection reveal that the Work is changed or altered in any way, the Customer is due to pay the cost of the Inspection plus any cost required to amend the issue.

13.3 Shaw will endeavour to deliver search engine optimisation services and Reporting Services to the best of their ability and as the Service as stated on the Order Confirmation. However, due to the nature of the Services provided by Shaw, there is no warranty offered by Shaw with regard to any impact on the Customer's sales revenue or increase in turnover as a result of the Work.

14. Disclaimer and Limitation of Liability

14.1 The Customer uses the Service at its own risk and in no event shall Shaw be liable to the Customer for any direct, consequential, incidental or special damage or loss of any kind (except personal injury or death resulting from Shaw's negligence) including, the Customer's resistance to using the Service, not having adequate budget for the project but not limited to, loss of profits, loss of contracts, business interruptions, Customer missing deadlines, loss of or corruption of data or the Customer's inability to use the Service, however caused and whether arising under contract or tort, including negligence or otherwise except as expressly provided herein.

14.2 If any exclusion, disclaimer or other provision contained in this Agreement is held to be invalid for any reason by a court of competent jurisdiction and Shaw becomes liable thereby for loss or damage that may lawfully be limited, such liability whether in contract, delict (including negligence) or otherwise, will not exceed the total charges paid by the Customer in the one month preceding such liability arising.

14.3 Shaw shall have no liability for delay in the provision of the Service or for any effect upon the quality of the Service caused by external activities, third-party failures or problems suffered as a result of the Customer's internal communication or the accessibility or cooperation of the Customer.

14.4 Additional costs may be due and payable by the Customer as a result of requests for requirements additional to the Services set out in the Order Confirmation. Shaw reserves the right to charge the Customer at our normal hourly rate as notified in the Order Confirmation for extra hours not originally agreed and set out in the Order Confirmation.

14.5 Shaw will not be held responsible for any delay to the Service if payment is not received pursuant to clause 9.1 and 10.1

14.6 Shaw is not responsible for third-party mistakes or external delays and will not accept delay in payment to us from you as a result of such circumstances.

14.7 With regard to availability of the Shaw web, online or hosting Services; We cannot guarantee 100% up time. The Customer acknowledges that Shaw cannot and does not warrant that the Service will detect or protect against viruses or attacks.

14.8 Shaw can only be responsible for delivering Services as agreed in the Brief Document.

14.9 With regards to all Services including Reporting Services, Shaw can only be responsible for delivering Services as agreed in the Order Confirmation.

14.10 Unless otherwise agreed, the Customer will assume all responsibility for the Work when it goes Live (Live Project).

14.11 Shaw cannot be responsible for generating revenue for the Customer.

14.12 Shaw cannot be held responsible for any loss of data for any reason whatsoever.

15. Force Majeure

15.1 Shaw shall not be liable to you or be deemed to be in breach of the Agreement by reason of delay in performing, or any failure to perform, any of our obligations in relation to the Services, if the delay or failure was beyond our reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond our reasonable control:

15.1.1 act of god, explosion, flood, tempest, fire or accident; weather, war or threat of war, sabotage, pandemic flu or virus, insurrection, civil disturbance or requisition; acts, restrictions, data breach, regulations, bye-laws, prohibitions or measures or any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial actions, power cuts or trade disputes (whether involving our employees or of a third-party); or difficulties in obtaining the System, labour, fuel, parts or machinery, technical problems, external circumstances preventing suppliers delivering against deadlines or preventing delivery of third-party against agreed commitments.

16. Confidentiality

16.1 Each party will keep confidential any Confidential Information disclosed to it by the other. Neither party will disclose any Confidential Information to any third-party, save to its agents, subcontractors, advisers or to an employee who needs to have access to such Confidential Information in

connection with the performance of any obligations under the Customer Agreement, PROVIDED THAT the disclosing party will be responsible for ensuring that any person to whom it makes any such disclosure complies with this Clause 16.

17. Intellectual Property rights and ownership

17.1 All intellectual property rights arising out of this Agreement shall vest in Shaw. The IP (all intellectual rights associated with the IP) is exclusively owned by Shaw and the Customer is granted a non-exclusive, non-transferable, royalty-free licence to use that intellectual property for the purposes envisaged by the Agreement.

17.2 Nothing in this Agreement shall be taken to prevent us from using any expertise acquired or developed during the performance of this Agreement in the provision of Services to other parties. Shaw retains the right to use Intellectual Property content (your company logo and brief description of the work) for marketing use.

17.3 Working files (eg InDesign, Photoshop, Illustrator) remain the sole property of Shaw Marketing and Design and are not included in project deliverables unless otherwise agreed in advance in writing. Final deliverables will be provided in final export formats (eg PDF, JPEG, EPS).

17.4 All Customer-owned content and materials including all pre-existing Trademarks shall remain the sole property of the Customer or its respective suppliers and the Customer or its suppliers shall be the sole owner of all rights in connection therewith. The Customer hereby grants to Shaw a nonexclusive, non-transferable licence to use, reproduce, modify, display and publish the Customer-owned content and materials solely in connection with the Work (including any Customer content that appears during delivery of the Shaw Service).

18. Privacy and Data Protection

18.1 The parties acknowledge that the images of individuals appearing in videos and/or photographs produced as part of the Service will constitute personal data in terms of the Data Protection Act 1998 and GDPR (“the Act”). In processing, such personal data Shaw is a data processor in terms of the Act and such processing is at the behest of and under the direction of the Customer. The Customer hereby acknowledges its obligations as a data controller in terms of the Act and warrants and represents to the Service Provider that it has discharged and shall discharge its obligations in terms thereof and the Customer shall hold Shaw harmless from any claims by any third-party relating thereto.

18.2 Any personal data (as defined in the Act) provided by you to us shall at all times remain your property and we shall take all reasonable precautions to preserve the integrity of such Personal Data and to prevent any corruption or loss, damage or destruction of such Personal Data, PROVIDED THAT we reserve the right to disclose to the police, the fire authorities, any other relevant authority, our insurance company and any of their representative’s details of the records kept by us.

18.3 The Internet is inherently insecure. The Customer accepts that Customer Information including any personal data or other information submitted by means of the Internet may be vulnerable to unauthorised access by third parties. We will take reasonable and appropriate technical measures to ensure that your Customer Information including any personal data is stored in a secure manner. However, we shall have no liability for disclosure of data due to errors in transmission or the fraudulent, negligent or other illegal acts of a third-party, such as 'hacking'. Any transmission of Customer Information and/or personal data through the Customer Interface or by any other means is at your own risk.

19. Assignment

19.1 Neither party shall assign, transfer or in any other manner make over to any third-party the benefit and/or burden of this agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

19.2 Nothing in this clause 19.1 shall prevent Shaw from engaging subcontractors or consultants as may be deemed necessary or desirable for the performance of Shaw's obligations under the Agreement.

20. Notices

20.1 Any notice, demand or other communication given or made under or in connection with the matters contemplated by this Agreement shall be deemed to have been duly given and received;

20.1.1 if personally delivered, upon delivery at the address of the relevant party;

20.1.2 if sent by first class post, two business days after the date of posting;

20.1.3 if by email, when sent;

provided that if, in accordance with the above provision, any notice, demand or other communication would otherwise be deemed to be given or made after 17:30 hours, it shall be deemed to be given or made at the start of the next business day.

20.2 Any notice personally delivered or sent by first class post shall be delivered to the address of the relevant party set out in the Order Confirmation.

21. Non-Solicitation

21.1 For a period of 12 months (as stated on the Order Confirmation), the Customer will not employ or offer employment to any person employed by Shaw. If the Customer breaches this condition, the Customer recognises that Shaw will suffer substantial loss and will reimburse Shaw for such loss.

22. General

22.1 Failure or delay by Shaw in enforcing any term of the Agreement shall not be construed as a waiver of any of its rights under it.

22.2 The illegality, invalidity or unenforceability of any part of this Agreement will not affect the legality, validity or enforceability of the remainder.

22.3 The construction, validity and performance of this Agreement shall be governed by Scottish Law and the parties submit themselves to the non-exclusive jurisdiction of the Scottish Courts.

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