

## SUBSCRIPTION TERMS AND CONDITIONS

Welcome to The Diet and Lifestyle Project! We are The Diet and Lifestyle Project Limited being a company incorporated in England and Wales with Company number 16183913 and registered office address: 31 Modena Road, Hove, East Sussex, United Kingdom, BN3 5QF ('we', 'our' or 'us') and we provide a health and lifestyle platform [www.thedietandlifestyleproject.com](http://www.thedietandlifestyleproject.com) (**Platform**).

These terms and conditions (**Terms**) govern your access to the Platform and us providing you any other goods and services as set out in these Terms (**Subscription**). You can view the most updated version of our Terms at [www.thedietandlifestyleproject.com/platformterms](http://www.thedietandlifestyleproject.com/platformterms) (**Website**). Please read these terms and conditions carefully before agreeing to proceed with your Subscription.

Your Subscription is for the tiered package as selected by you and agreed between us by means of the Website (**Subscription Tier**).

**Please note that your Subscription will continue to renew indefinitely, and you will continue to incur Subscription Fees, unless you notify us that you want to cancel your Subscription in accordance with clause 15. Please ensure you contact us if you want to cancel your Subscription.**

### YOUR KEY INFORMATION

The *Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013* say that up to 14 days after purchasing services, in most cases, you can *cancel within 14 days. If you agree the services will start within this time, you may be charged for what you've used.* Our Platform contains content which falls under the Digital Download category and therefore you will be given the option when you sign up for the Platform to either:

- Wait 14 days to access the Platform; or
- Waive the 14 day right to cancel and access the Platform immediately.



The *Consumer Rights Act 2015* says:

- you can ask us to repeat or fix a service if it's not carried out with reasonable care and skill, or get some money back if we can't fix it;
- if a price hasn't been agreed upfront, what you're asked to pay must be reasonable;
- if a time hasn't been agreed upfront, it must be carried out within a reasonable time.

This is a summary of some of your key rights. For detailed information from Citizens Advice please visit [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk) or call 0808 223 1133.

The information in this summary box summarises some of your key rights. It is not intended to replace the contract below, which you should read carefully.

### 1. READING AND ACCEPTING THESE TERMS

- (a) In these Terms, capitalised words and phrases have the meanings given to them where they are followed by bolded brackets, or as set out in the Definitions table at the end of these Terms.
- (b) By clicking the tick box below or clicking the "I accept these Terms" button on our Website, paying for your Subscription or otherwise accepting the benefit of any part of your Subscription, you agree to be bound by these Terms which form a binding contractual agreement between you the person acquiring a Subscription or the company you represent and are acquiring the Subscription on behalf of ('you' or 'your') and us.
- (c) We may change these Terms at any time by notifying you, and your continued use of the Platform following such an update will represent an agreement by you to be bound by the Terms as amended.

## 2. INFORMATION WE GIVE YOU

- (a) By law, the *Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013* say that we must give you certain key information before a legally binding contract between you and us is made. This information is set out at the start of these T&Cs and elsewhere throughout our website. If you cannot access this information for any, you are welcome to contact us using the functionality on the website and we will provide you with a copy of this information.
- (b) The key information we give you by law forms part of this contract (as though it is set out in full here).
- (c) If we have to change any key information once a legally binding contract between you and us is made, we can only do this if you agree to it.

## 3. ELIGIBILITY

- (a) By accepting these Terms, you represent and warrant that:
  - (i) you have the legal capacity and authority to enter into a binding contract with us; and
  - (ii) you are authorised to use the payment you provided when purchasing a Subscription.
- (b) The Platform is not intended for unsupervised use by any person under the age of 18 years old or any person who has previously been suspended or prohibited from using the Platform. By using the Platform, you represent and warrant that you are either:
  - (i) over the age of 18 years and accessing the Platform for personal use only; or
  - (ii) accessing the Platform on behalf of someone under the age of 18 years old and consent to that person's use of the Platform.
- (c) Please do not access the Platform if you are under the age of 18 years old and do not have your parent or guardian's consent, if you are under 16 or if you have previously been suspended or prohibited from using the Platform.
- (d) If you are signing up not as an individual but on behalf of your company, your employer, an organisation, government or other legal entity (**Represented Entity**), then "you" or "your" means the Represented Entity and you are binding the Represented Entity to this agreement. If you are accepting this agreement and using our Platform on behalf of a Represented Entity, you represent and warrant that you are authorised to do so.



## 2. DISCLAIMER

- (a) (**General Information**) The information provided on our Platform is general in nature and we have not considered your personal circumstances or abilities in preparing the Platform Content. You should use your own discretion before implementing recommendations or performing exercises in our Platform Content, and should immediately stop if you experience any issues.
- (b) (**No Guaranteed Outcome**) We take your wellbeing seriously. Whilst the Platform provides information and resources to improve your physical health and wellbeing, we make no representation or guarantee that our Platform or the Platform Content will be useful or relevant to you or that by applying any ideas, recommendations, methods or techniques in the Platform Content you will achieve any particular outcomes. We are not responsible for any of your actions, decisions or choices and any methods and techniques implemented by you in relation to the Platform Content or otherwise are done so at your own risk and should always be in consultation with your medical doctor.
- (c) (**Not Medical Advice**) All information provided as part of our Platform is not intended to be medical advice of any kind and should not be relied on as such. The Platform is not intended to diagnose or treat medical conditions. We are not aware of any potential contra-indications for certain lifestyle changes if you have other medical conditions or factors (whether or not you are diagnosed, or have informed us) which may affect you. This is why you should always undertake any activities set out in the Platform Content in consultation with your regular doctor.
- (d) Exercise, including any activities or exercises suggested in the Platform Content, has inherent risk and you must use caution and take reasonable care and precaution, when

undertaking any recommendations (including but not limited to exercises) suggested as part of the Platform. You must not perform any exercises or recommendations if you have any injury, illness or condition (including but not limited to taking medications which may affect your balance) which would make performing the exercises or following any recommendations dangerous to you or others. Without limiting the generality of this clause, you must not perform any exercise under the influence of any recreational drugs or alcohol. You undertake the recommendations and exercises at your own risk.

#### 4. DURATION OF YOUR SUBSCRIPTION

- (a) Your Subscription and these Terms commence on the date you agree to be bound by these Terms (as set out at the beginning of these Terms) and continues for the Subscription Period and any Renewal Periods applicable, unless terminated earlier in accordance with clause 15.
- (b) Subject to clause 3(c), upon expiration of the Subscription Period, this agreement will automatically and indefinitely renew on an ongoing basis for a period equal to the Subscription Period (**Renewal Period**).
- (c) This agreement will not automatically renew on expiry of the Subscription or Renewal Period (**Renewal Date**), if either party provides a written cancellation notice at least **7 days** prior to the Renewal Date.

#### 5. THE PLATFORM

##### 5.1. SCOPE OF YOUR SUBSCRIPTION AND THE PLATFORM

- (a) We will provide you, to the extent described in your Subscription Tier, the Platform and the Platform Content (**Platform**).
- (b) Your Subscription includes the benefits and limitations of your Subscription Tier as set out on our Website, or as otherwise communicated to you when you subscribe for your Subscription (and as amended from time to time by notice to you).

##### 5.2. ACCOUNTS



- (a) (**Accounts**) To use the Platform, you may be required to sign-up, register and receive an account through the Website (an **Account**).
- (b) (**Provide Information**) As part of the Account registration process and as part of your continued use of the Website, you may be required to provide personal information and details, such as your email address, first and last name, preferred username, a secure password, billing, postal and physical addresses, mobile phone number, profile information, payment details, ratings and reviews, and other information as determined by us from time to time.
- (c) (**Warranty**) You warrant that any information you give to us in the course of completing the Account registration process is accurate, honest, correct and up-to-date.
- (d) (**Acceptance**) Once you complete the Account registration process, we may, in our absolute discretion, choose to accept you as a registered user within the Website and provide you with an Account.

##### 5.3. DISCLAIMER

You acknowledge and agree that:

- (a) any information provided to you as part of or in connection with the Platform or the Services is general in nature, may not be suitable for your circumstances and does not constitute financial, legal or any other kind of professional advice; and
- (b) it is your responsibility to comply with applicable Laws relevant to your business, including industrial relations Laws and privacy Laws.

##### 5.4. PLATFORM

- (a) While your Subscription is maintained, we grant to you a non-exclusive, non-transferable licence to use the Platform and Platform Content for your own personal use only.
- (b) We may from time to time, in our absolute discretion, release enhancements to the Platform, meaning an upgraded, improved, modified or new versions of the Platform

**(Enhancements).** Any Enhancements to the Platform will not limit or otherwise affect these Terms. Enhancements may cause downtime or delays from time to time, and credits will not be provided for such downtime.

- (c) We may change any features of the Platform at any time on notice to you.

## 5.5. FAULTY SERVICES

- (a) Your legal rights under the Consumer Rights Act 2015 (also known as 'statutory rights') are set out at the top of this page. They are a summary of some of your key rights. For more detailed information on your rights and what you should expect from us, please:
  - (i) contact us using the contact details at the top of this page; or
  - (ii) visit the Citizens Advice website [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk) or call 0808 223 1133.
- (b) Nothing in this contract affects your legal rights under the *Consumer Rights Act 2015* (also known as 'statutory rights'). You may also have other rights in law.
- (c) If the services we have provided to you are faulty, please contact us using the contact details at the top of this page.

## 6. DATA HOSTING

We will store User Data you upload to the Platform using a third party hosting service selected by us (**Hosting Services**), subject to the following terms:

- (a) **(hosting location)** You acknowledge and agree that we may use storage servers to host the Platform through cloud-based services, and potentially other locations outside Australia.
- (b) **(service quality)** While we will use our best efforts to select an appropriate hosting provider, we do not guarantee that the Hosting Services will be free from errors or defects or that User Data will be accessible or available at all times.
- (c) **(security)** We will use our best efforts to ensure that User Data is stored securely. However, we do not accept responsibility or liability for any unauthorised use, destruction, loss, damage or alteration to User Data, including due to hacking, malware, ransomware, viruses, malicious computer code or other forms of interference.
- (d) **(backups & disaster recovery)** In the event that User Data is lost due to a system failure (e.g. a database or webserver crash), we cannot guarantee that any backup will be available, or if available that such a backup will be free from errors or defects.

## 7. CLIENT OBLIGATIONS

- (a) **You must comply with these Terms at all times.** You acknowledge and agree that we will have no liability in respect of any damage, loss or expense which arises in connection with your, your Personnel's, or any User's, breach of these Terms, and you indemnify us in respect of any such damage, loss or expense.
- (b) You must not, and must not encourage or permit any User, Personnel or any third party to, without our prior written approval:
  - (i) upload sensitive information or commercial secrets using the Platform;
  - (ii) upload any inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist material using the Platform;
  - (iii) use the Platform for any purpose other than for the purpose for which it was designed, including you must not use the Platform in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity (including requesting or accepting a job which includes illegal activities or purposes);
  - (iv) upload any material that is owned or copyrighted by a third party;
  - (v) make copies of the Platform Content or the Platform;
  - (vi) adapt, modify or tamper in any way with the Platform;
  - (vii) remove or alter any copyright, trade mark or other notice on or forming part of the Platform or Platform Content;

- (viii) act in any way that may harm our reputation or that of associated or interested parties or do anything at all contrary to the interests of us or the Platform;
  - (ix) use the Platform in a way which infringes the Intellectual Property Rights of any third party;
  - (x) create derivative works from or translate the Platform or Platform Content;
  - (xi) publish or otherwise communicate the Platform or Platform Content to the public, including by making it available online or sharing it with third parties;
  - (xii) intimidate, harass, impersonate, stalk, threaten, bully or endanger any other User or distribute unsolicited commercial content, junk mail, spam, bulk content or harassment in connection with the Platform;
  - (xiii) sell, loan, transfer, sub-licence, hire or otherwise dispose of the Platform or Platform Content to any third party, other than granting a User access as permitted under these Terms;
  - (xiv) decompile or reverse engineer the Platform or any part of it, or otherwise attempt to derive its source code;
  - (xv) share your Account or Account information, including log in details or passwords, with any other person and that any use of your Account by any person who is not the account holder is strictly prohibited. You must immediately notify us of any unauthorised use of your Account, password or email, or any other breach or potential breach of the Platform's security;
  - (xvi) use the Platform for any purpose other than for the purpose for which it was designed, including you must not use the Platform in a manner that is illegal or fraudulent or facilitates illegal or fraudulent activity (including requesting or accepting a job which includes illegal activities or purposes);
  - (xvii) make any automated use of the Platform and you must not copy, reproduce, translate, adapt, vary or modify the Platform without our express written consent; or
  - (xviii) attempt to circumvent any technological protection mechanism or other security feature of the Platform.
- (c) If you become aware of misuse of your Subscription by any person, any errors in the material on your Subscription or any difficulty in accessing or using your Subscription, please contact us immediately using the contact details or form provided on our Website.
- (d) You agree:
- (i) to comply with each of your obligations in these Terms;
  - (ii) to sign up for an Account in order to use the Platform;
  - (iii) that information given to you through the Platform, by us or another User, is general in nature and we take no responsibility for anything caused by any actions you take in reliance on that information; and
  - (iv) that we may cancel your Account at any time if we consider, in our absolute discretion, that you or they are in breach of, or are likely to breach, this clause 6.

## 8. FEES AND PAYMENT

### 8.1. TRIAL PERIOD

We may from time to time offer a free trial period of the Platform (**Free Trial Period**). No payments will be due during any Free Trial Period and your first payment will be due immediately after the expiry of the Free Trial Period.

### 8.2. SUBSCRIPTION FEES

- (a) You must pay subscription fees to us in the amounts specified on the Website for your Subscription Tier, or as otherwise agreed in writing (**Subscription Fees**).
- (b) All Subscription Fees must be paid in advance and are non-refundable for change of mind.

- (c) Unless otherwise agreed in writing, the Subscription Fees are due and payable on a recurring basis for the duration of your Subscription, with the first payment being due on the first day of the Subscription Period (or immediately after the expiry of any applicable Free Trial Period) and at the beginning of every Renewal Period thereafter.

### 8.3. AUTOMATIC RECURRING BILLING

Subject to clauses 7.4 and 7.5:

- (a) Your Subscription will continue to renew on an automatic indefinite basis unless you notify us that you wish to cancel in accordance with this clause 7.
- (b) While your Subscription is maintained, your Subscription Fees will continue to be debited at the beginning of each Renewal Period from the payment method you nominated when you registered for an Account.
- (c) By signing up for a recurring Subscription, you acknowledge and agree that your Subscription has an initial and recurring payment feature, and you accept responsibility for all recurring charges prior to your cancellation of your Subscription.

### 8.4. CHANGES TO SUBSCRIPTION FEES

We may, from time to time, change our Subscription Fees and provide you with 10 Business Days' notice prior to the changes. During this time, you have the opportunity to cancel your Subscription with us.

### 8.5. LATE PAYMENTS

We reserve the right to suspend all or part of the Platform indefinitely if you fail to pay any Fees in accordance with this clause 7.

### 8.6. ONLINE PAYMENT PARTNER

- (a) We may use third-party online payment partner, currently Stripe (**Online Payment Partner**) to collect Subscription Fees.
- (b) Provided that the Service Provider has notified the Client of such Third Party Terms and provided the Client with a copy of those terms, you acknowledge agree that:
  - (i) the processing of payments by the Online Payment Partner will be, in addition to this agreement, subject to the terms, conditions and privacy policies of the Online Payment Partner, which can be found [www.stripe.com/gb/legal](https://www.stripe.com/gb/legal)
  - (ii) you release us and our Personnel in respect of all liability for loss, damage or injury which may be suffered by any person arising from any act or omission of the Online Payment Partner, including any issue with security or performance of the Online Payment Partner's platform or any error or mistake in processing your payment; and
  - (iii) We reserve the right to correct, or to instruct our Online Payment Partner to correct, any errors or mistakes in collecting your payment.
- (b) You have the right to reject any terms and conditions of the Online Payment Partner. If you reject those terms, we cannot provide you with the Subscription and clause 15 will apply.

## 9. POSTED MATERIAL

### 9.1. WARRANTIES

By providing or posting any information, Material or other content in connection with the Platform (**Posted Material**), you represent and warrant that, and must ensure that all Users make equivalent representations and warranties:

- (a) you are authorised to provide the Posted Material (including by being authorised to provide any services that you represent you provide);
- (b) the Posted Material is accurate and true at the time it is provided;
- (c) any Posted Material which is in the form of a review or feedback is honest, accurate and presents a fair view of the relevant person and/or your experience;



- (d) the Posted Material is free from any harmful, discriminatory, defamatory or maliciously false implications and does not contain any offensive or explicit material;
- (e) the Posted Material is free from any material that may harm our reputation or that of associated or interested parties;
- (f) the Posted Material is not “passing off” of any product or service and does not constitute unfair competition;
- (g) the Posted Material does not infringe any Intellectual Property Rights, including copyright, trademarks, business names, patents, Confidential Information or any other similar proprietary rights, whether registered or unregistered, anywhere in the world;
- (h) the Posted Material does not contain any viruses or other harmful code, or otherwise compromise the security or integrity of the Platform or any network or system; and
- (i) the Posted Material does not breach or infringe any applicable Laws.

## 9.2. LICENCE

- (a) You grant, and must ensure that all Users grant, to us a perpetual, irrevocable, transferable, worldwide and royalty-free licence (including the right to sublicense) to use, copy, modify, reproduce and adapt any Intellectual Property Rights in any Posted Material in order for us to use, exploit or otherwise enjoy the benefit of such Posted Material.
- (b) If it is determined that you retain moral rights (including rights of attribution or integrity) in any Posted Material, you release us from any and all claims that you could assert against us by virtue of any such moral rights, and you must ensure that all Users grant an equivalent release.
- (c) You indemnify us against all damages, losses, costs and expenses incurred by us arising in connection with any third party claim that Posted Material infringes any third party's Intellectual Property Rights.

## 9.3. REMOVAL

- (a) The Platform acts as a passive conduit for the online distribution of Posted Material and has no obligation to screen Posted Material. However, we may, in our absolute discretion, review and remove any Posted Material from the Platform at any time without giving any explanation or justification for removing the Posted Material, including if we determine that the Posted Material infringes a third party's Intellectual Property Rights, or is reasonably likely to.
- (b) You agree that you are responsible for keeping and maintaining records of Posted Material.

## 9.4. INFRINGING CONTENT ON THE PLATFORM

- (a) If you become aware of Posted Material, or other Material, on the Platform that infringes the Intellectual Property Rights of any person, or is reasonably likely to, please contact us immediately via the Platform.
- (b) If you submit a complaint on our Website under clause 8.4(a):
  - (i) you warrant that the substance of the complaint is accurate, true and involves infringement of copyright;
  - (ii) you acknowledge and agree that groundless threats of legal proceedings in relation to copyright infringement may be prohibited under applicable law (for example, Australia's *Copyright Act 1968*, or equivalent laws wherever you are located); and
  - (iii) you agree to indemnify us in relation to any loss or damage that may arise in relation to your complaint, including in relation to any third party claim that the complaint contains a groundless threat.

# 10. INTELLECTUAL PROPERTY AND DATA

## 10.1. PLATFORM CONTENT INTELLECTUAL PROPERTY

- (a) **(Our ownership)** We retain ownership of all Materials provided to you throughout the course of your Subscription in connection with the Platform (including text, graphics,

logos, design, icons, images, sound and video recordings, pricing, downloads and Platform) (**Platform Content**) and reserve all rights in any Intellectual Property Rights owned or licensed by us in the Platform Content not expressly granted to you.

- (b) (**Licence to you**) You are granted a licence to the Platform Content, for the Number of Platform Uses, and you may make a temporary electronic copy of all or part of any materials provided to you for the sole purpose of viewing them and using them for the purposes of the Platform. You must not otherwise reproduce, transmit, adapt, distribute, sell, modify or publish those materials or any Platform Content without prior written consent from us or as otherwise permitted by law.

## 10.2. USER DATA

### **Our Rights and Obligations**

- (a) You grant to us (and our Personnel) a non-exclusive, royalty free, non-transferable, worldwide and irrevocable licence to use User Data to the extent reasonably required to provide the Platform, and for our internal business purposes, including to improve the Platform and our other products and services, and including to apply machine learning and other analytics processes to the User Data, to gain commercial insights and other associated learnings, and to improve the Platform, our business and our other products and services.
- (b) We reserve the right to remove any User Data at any time, for any reason, including where we deem User Data to be inappropriate, offensive, illicit, illegal, pornographic, sexist, homophobic or racist.

### **Your Obligations and Grant of Licence to Us**

- (c) You are responsible for ensuring that:
  - (i) you share User Data only with intended recipients; and
  - (ii) all User Data is appropriate and not in contravention of these Terms.
- (d) You:
  - (i) warrant that our use of User Data will not infringe any third-party Intellectual Property Rights; and
  - (ii) indemnify us from and against all losses, claims, expenses, damages and liabilities (including any taxes, fees or costs) which arise out of such infringement.

## 11. THIRD PARTY PLATFORM & TERMS

### 11.1. THIRD PARTY TERMS

- (a) If we are required to acquire goods or services supplied by a third party, you may be subject to the terms and conditions of that third party (**'Third Party Terms'**).
- (b) Provided that we have notified you of such Third Party Terms and provided you with a copy of those terms, you agree to any Third Party Terms applicable to any goods or services supplied by a third party that we acquire as part of providing the Platform to you and we will not be liable for any loss or damage suffered by you in connection with such Third Party Terms.
- (c) You have the right to reject any Third Party Terms. If you reject the Third Party Terms, we cannot provide the Platform to you and clause 15 will apply.

## 12. CONFIDENTIALITY

- (a) Except as contemplated by these Terms, a party must not, and must not permit any of its Personnel, use or disclose to any person any Confidential Information disclosed to it by the other party without the disclosing party's prior written consent.
- (b) Each party must promptly notify the other party if it learns of any potential, actual or suspected loss, misappropriation or unauthorised access to, or disclosure or use of Confidential Information or other compromise of the security, confidentiality, or integrity of Confidential Information.



- (c) The notifying party will investigate each potential, actual or suspected breach of confidentiality and assist the other party in connection with any related investigation.

### 13. PRIVACY

- (a) We collect personal information about you in the course of providing you with the Platform, to contact and communicate with you, to respond to your enquiries and for other purposes set out in our Privacy Policy which can be found at [www.thedietandlifestyleproject.com/privacypolicy](http://www.thedietandlifestyleproject.com/privacypolicy).
- (b) Our Privacy Policy contains more information about how we use, disclose and store your personal information and details how you can access and correct your personal information.
- (c) By agreeing to these Terms, you agree to our handling of personal information in accordance with our Privacy Policy.

### 14. LIABILITY

#### 14.1. WARRANTIES AND LIMITATIONS

- (a) **(Warranties)** We warrant that:
  - (i) during the Subscription Period, the Platform will be provided as described to you in, and subject to, these Terms; and
  - (ii) to our knowledge, the use of the Platform in accordance with these Terms will not infringe the Intellectual Property Rights of any third party.
- (b) **(Errors)** We will correct any errors, bugs or defects in the Platform which arise during your Subscription and which are notified to us by you, unless the errors, bugs or defects:
  - (i) result from the interaction of the Platform with any other Platform or computer hardware, Platform or services not approved in writing by us;
  - (ii) result from any misuse of the Platform; or
  - (iii) result from the use of the Platform by you other than in accordance with these Terms or the Platform Content.
- (c) **(Service Limitations)** While we will use our best endeavours to ensure the Platform is working for its intended purpose, you acknowledge and agree that from time to time, you may encounter the following issues:
  - (i) the Platform may have errors or defects;
  - (ii) the Platform may not be accessible at times;
  - (iii) messages sent through the Platform may not be delivered promptly, or delivered at all;
  - (iv) information you receive or supply through the Platform may not be secure or confidential; or
  - (v) any information provided through the Platform may not be accurate or true.
- (d) **(Exclusion)** To the maximum extent permitted by applicable law, all express or implied representations and warranties not expressly stated in these Terms are excluded.



#### 14.2. LIABILITY

- (a) **(Liability)** To the maximum extent permitted by applicable law, we limit all liability in aggregate of all claims to you (and any third parties who encounter the services or goods through your business) for loss or damage of any kind, however arising whether in contract, tort, statute, equity, indemnity or otherwise, arising from or relating in any way to this agreement or any goods or services provided by us to the amount paid by you in the 3 months preceding the date of the event giving rise to the relevant liability.
- (b) **(Indemnity)** You agree to indemnify us and our employees, contractors and agents in respect of all liability for any claim(s) by any person (including any third party who encounter the services or goods through your business) arising from your or your employee's, client's, contractor's or agent's:

- (i) breach of any third party intellectual property rights;
  - (ii) breach of any term of this agreement;
  - (iii) negligent, wilful, fraudulent or criminal act or omission; or
  - (iv) use of the Platform.
- (c) **(Consequential loss)** To the maximum extent permitted by law, under no circumstances will we be liable for any incidental, special or consequential loss or damages, or damages for loss of data, business or business opportunity, goodwill, anticipated savings, profits or revenue arising under or in connection with this agreement or any goods or services provided by us.
- (d) **(Unfair Contract Terms)** To the extent that the provisions of any applicable law shall impose restrictions on the extent to which liability can be excluded under these Terms including, for the avoidance of doubt, the provisions of sections 3, 6 and 11 of the *Unfair Contract Terms Act 1977* in the UK (and its equivalent in any other jurisdiction) relating to the requirement of reasonableness, the exclusions set out in this clause shall be limited in accordance with such restrictions. However, any exclusions of liability that are not affected by such restrictions shall remain in full force and effect.
- (e) Nothing in this agreement shall exclude or limit a party's liability for fraud or intentional unlawful conduct by a party, or death or personal injury resulting from a party's negligence.

## 15. UPGRADE AND DOWNGRADES

- (a) You may notify us that you would like to upgrade or downgrade your Subscription Tier at any time. If you do, we will:
- (i) take reasonable steps to promptly provide you with access to the new Subscription Tier; and
  - (ii) upon providing such access, apply the new, relevant Subscription Fees, to the Renewal Period immediately following the period in which your access to the new Subscription Tier was provided, and you will be charged at the new Subscription Fee in every subsequent Renewal Period.
- (b) If you choose to downgrade your Subscription, access to the new Subscription Tier and the new Subscription Fees will kick in at the start of the next Renewal Period, unless we notify you otherwise. We generally do not pro-rate downgrades in between Renewal Periods, however we reserve the right to from time to time.
- (c) If you choose to downgrade your Subscription, you acknowledge and agree we are not liable, and you release us from all claims in relation to, any loss of content, features, or capacity, including any User Data.

## 16. CANCELLATION

### 16.1. CANCELLATION AT ANY TIME

You can cancel your Subscription at any time via the Platform. If you cancel, your Subscription will terminate at the end of the then current Subscription Period. Subject to clause 16.2, any Subscription Fees paid are not refundable.

### 16.2. RIGHT TO CANCEL

- (a) You have the right to cancel this contract within 14 days without giving any reason. However, you do not have the right to cancel if you requested for us to start providing the services during the cancellation period. This is further explained in clauses 16.2(d) and 16.2(e) below.
- (b) The cancellation period will expire after 14 days from the day of the conclusion of the contract.
- (c) To exercise the right to cancel, you must inform us of your decision to cancel this contract by a clear statement to us, for example by emailing us using the contact details available on our website or functionality on the Platform.
- (d) To meet the cancellation deadline, it is sufficient for you to send your communication concerning your exercise of the right to cancel before the cancellation period has expired.

- (e) We will not start providing the services during the 14-day cancellation period unless you ask us to. When you sign up for the Platform and Subscription, you will be given the option to tick a box to request for us to start providing the Subscription during the cancellation period. By ticking the box, you acknowledge that you will lose your right to cancel this contract once we grant you access to the Platform and Platform Content. If you do not tick the box, we will not be able to start providing the Platform to you until the cancellation period has expired. We are not obliged to accept your request.
- (f) This means that if you requested for us to start providing the Platform during the cancellation period you lose your right to cancel and will be required to pay the full price under this contract even if the cancellation period has not expired.
- (g) This does not affect the rights you have if your services are faulty. A summary of these rights is provided at the top of this page. See also clause 5.5.

### 16.3. CANCELLATION FOR BREACH

- (a) Either party may cancel your Subscription immediately by written notice if there has been a Breach of these Terms.
- (b) A “**Breach**” of these Terms means:
  - (i) a party (**Notifying Party**) considers the other party (or any of its Personnel or Users) is in breach of these Terms and notifies the other party;
  - (ii) the other party is given 10 Business Days to rectify the breach; and
  - (iii) the breach has not been rectified within 10 Business Days or another period agreed between the parties in writing.

### 16.4. EFFECT OF TERMINATION

Upon termination of this agreement:

- (a) you will no longer have access to the Platform, your Account or your User Data and we will have no responsibility to store or otherwise retain any User Data (and you release us in respect of any loss or damage which may arise out of us not retaining any User Data beyond that point);
- (b) unless agreed in writing, any Subscription Fees that would otherwise have been payable after termination for the remainder of the relevant Renewal Period will remain payable and, to the maximum extent permitted by law, no Subscription Fees already paid will be refundable; and
- (c) each party must comply with all obligations that are by their nature intended to survive the end of this agreement, including without limitation clause 14.

## 17. DISPUTE RESOLUTION

- (a) A party claiming that a dispute has arisen under or in connection with this agreement must not commence court proceedings arising from or relating to the dispute, other than a claim for urgent interlocutory relief, unless that party has complied with the requirements of this clause.
- (b) A party that requires resolution of a dispute which arises under or in connection with this agreement must give the other party or parties to the dispute written notice containing reasonable details of the dispute and requiring its resolution under this clause.
- (c) Once the dispute notice has been given, each party to the dispute must then use its best efforts to resolve the dispute in good faith. If the dispute is not resolved within a period of 14 days (or such other period as agreed by the parties in writing) after the date of the notice, any party to the dispute may take legal proceedings to resolve the dispute.

## 18. FORCE MAJEURE

- (a) We will not be liable for any delay or failure to perform its obligations under this agreement if such delay or failure arises out of a Force Majeure Event.
- (b) If a Force Majeure Event occurs, we must use reasonable endeavours to notify you of:
  - (i) reasonable details of the Force Majeure Event; and

- (ii) so far as is known, the probable extent to which We will be unable to perform or be delayed in performing its obligations under this agreement.
- (c) Subject to compliance with clause 17(b), our relevant obligation will be suspended during the Force Majeure Event to the extent that it is affected by the Force Majeure Event.
- (d) For the purposes of this agreement, a 'Force Majeure Event' means any:
  - (i) act of God, lightning strike, meteor strike, earthquake, storm, flood, landslide, explosion or fire;
  - (ii) strikes or other industrial action outside of the control of us;
  - (iii) war, terrorism, sabotage, blockade, revolution, riot, insurrection, civil commotion, epidemic, pandemic; or
  - (iv) any decision of a government authority in relation to COVID-19, or any threat of COVID-19 beyond the reasonable control of us, to the extent it affects our ability to perform our obligations.

## 19. NOTICES

- (a) A notice or other communication to a party under these Terms must be:
  - (i) in writing and in English; and
  - (ii) delivered via email to the other party, to the email address specified in the Order, or if no email address is specified in the Order, then the email address most regularly used by the parties to correspond regarding the subject matter of this agreement as at the date of this agreement (**Email Address**). The parties may update their Email Address by notice to the other party.
- (b) Unless the party sending the notice knows or reasonably ought to suspect that an email was not delivered to the other party's Email Address, notice will be taken to be given:
  - (i) 24 hours after the email was sent, unless that falls on a Saturday, Sunday or a public holiday in the state or territory whose laws govern this agreement, in which case the notice will be taken to be given on the next occurring business day in that state or territory; or
  - (ii) when replied to by the other party,
 whichever is earlier.

## 20. GENERAL

### 20.1. GOVERNING LAW AND JURISDICTION

This agreement is governed by the law applying in England and Wales. Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process on the basis that the process has been brought in an inconvenient forum.

### 20.2. THIRD PARTY RIGHTS

This agreement does not give rise to any rights under the *Contracts (Rights of Third Parties) Act 1999* to enforce any term of this agreement.

### 20.3. WAIVER

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

### 20.4. SEVERANCE

Any term of this agreement which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity and enforceability of the remainder of this agreement is not limited or otherwise affected.

20.5. JOINT AND SEVERAL LIABILITY

An obligation or a liability assumed by, or a right conferred on, two or more persons binds or benefits them jointly and severally.

20.6. ASSIGNMENT

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of the other party.

20.7. ENTIRE AGREEMENT

This agreement embodies the entire agreement between the parties and supersedes any prior negotiation, conduct, arrangement, understanding or agreement, express or implied, in relation to the subject matter of this agreement.

20.8. INTERPRETATION

- (a) **(singular and plural)** words in the singular includes the plural (and vice versa);
- (b) **(currency)** a reference to £, or “GBP”, is to pound sterling currency of Great Britain, unless otherwise agreed in writing;
- (c) **(gender)** words indicating a gender includes the corresponding words of any other gender;
- (d) **(defined terms)** if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (e) **(person)** a reference to “person” or “you” includes an individual, the estate of an individual, a corporation, an authority, an association, consortium or joint venture (whether incorporated or unincorporated), a partnership, a trust and any other entity;
- (f) **(party)** a reference to a party includes that party’s executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (g) **(this agreement)** a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure is a reference to a party, clause, paragraph, schedule, exhibit, attachment or annexure to or of this agreement, and a reference to this agreement includes all schedules, exhibits, attachments and annexures to it;
- (h) **(document)** a reference to a document (including this agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (i) **(headings)** headings and words in bold type are for convenience only and do not affect interpretation;
- (j) **(includes)** the word “includes” and similar words in any form is not a word of limitation; and
- (k) **(adverse interpretation)** no provision of this agreement will be interpreted adversely to a party because that party was responsible for the preparation of this agreement or that provision.

## DEFINITIONS

Term	Definition
<b>Confidential Information</b>	means information of or provided by a party that is by its nature is confidential information, is designated by that party as confidential, or that the other party knows or ought to know is confidential, but does not include information, which is or becomes, without a breach of confidentiality, public knowledge.
<b>Platform Content</b>	means all content, material, articles, images and documents supplied by us to you relating via the Platform, whether in electronic or hardcopy form.
<b>Hosting Services</b>	has the meaning given in clause 5.
<b>Intellectual Property Rights</b>	means any and all present and future intellectual and industrial property rights throughout the world (whether registered or unregistered), including copyright, trade marks, designs, patents, moral rights, semiconductor and circuit layout rights, trade, business, company and domain names, and other proprietary rights, trade secrets, know-how, technical data, confidential information and the right to have information kept confidential, or any rights to registration of such rights (including renewal), whether created before or after the date of this agreement.
<b>Material</b>	means tangible and intangible information, documents, reports, Platform (including source and object code), inventions, data and other materials in any media whatsoever.
<b>Personnel</b>	means, in respect of a party, its officers, employees, contractors (including subcontractors) and agents.
<b>Platform</b>	has the meaning given in the first paragraph of these Terms.
<b>Platform Content</b>	has the meaning set out in clause 9.1(a).
<b>Platform</b>	has the meaning set out in clause 4.1.
<b>Subscription</b>	has meaning given in the first paragraph of these Terms.
<b>Subscription Fees</b>	has the meaning set out in clause 7 of these Terms.
<b>Subscription Period</b>	means the period of your Subscription to the Platform as agreed on the Website.
<b>Subscription Tier</b>	has the meaning given in the first paragraph of these Terms.
<b>User</b>	means you and any other user of the Platform.
<b>User Data</b>	means any files, data, document, information or any other Materials, which is uploaded to the Platform by you or any other User or which you, your Personnel or Users otherwise provide to us under or in connection with these Terms, including any Intellectual Property Rights attaching to those materials.
<b>Website</b>	means the Platform and any other website operated by us in connection with the Platform.

