

Part B

Standard Terms and Conditions for the Purchase of Services

These standard terms form part of the Contract for Services set out above (Part A):

1 Interpretation

1.1 Definitions:

- 1.1.1 **'Business Day'** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
- 1.1.2 **'Conditions'** means these standard terms and conditions for the supply of services as amended from time to time in accordance with clause 29;
- 1.1.3 **'Creative United'** means Creative Sector Services C.I.C. (trading as Creative United) which has its registered address at c/o Buzzacott LLP, 130 Wood Street, London EC2V 6DL (Company Number: 08280539);
- 1.1.4 **'Contract'** means the contract between Creative United and the Service Provider incorporating Part A (Contract for Services) or the Order and Specification (as applicable), Part B (these Conditions), the attached schedules (as applicable) and any other documents that the parties have explicitly agreed in writing will form part of this contract;
- 1.1.5 **'Data Protection Legislation'** means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 and regulations made thereunder and the Privacy and Electronic Communications Regulations 2003 (SI2003/246) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority
- 1.1.6 **'Deliverables'** means all documents, products and materials developed by the Service Provider or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);
- 1.1.7 **'Fees'** means the fees payable by Creative United for the supply of the Services in accordance with clause 5;
- 1.1.8 **'Force Majeure Event'** means any circumstance not within a party's reasonable control including, without limitation:
 - 1.1.8.1 acts of God, flood, drought, earthquake or other natural disaster;
 - 1.1.8.2 epidemic or pandemic;

- 1.1.8.3 terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - 1.1.8.4 nuclear, chemical or biological contamination or sonic boom;
 - 1.1.8.5 any Law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition;
 - 1.1.8.6 collapse of buildings, fire, explosion or accident; and
 - 1.1.8.7 interruption or failure of utility service, other than that by staff of the party seeking to rely on the Force Majeure or those of its subcontractors.
- 1.1.9 **'Intellectual Property Rights'** means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- 1.1.10 **'Law'** means the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services or with which the Supplier is bound to comply;
- 1.1.11 **'Order'** means Creative United's order for the supply of Services, as set out in Creative United's purchase order form or written acceptance of the Service Provider's quotation (if applicable);
- 1.1.12 **'Regulated Activity'** in relation to children, shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as asset out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006;
- 1.1.13 **'Regulated Activity Provider'** shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006;
- 1.1.14 **'Service Provider'** means the person or firm from whom Creative United are purchasing the Services;
- 1.1.15 **'Services'** means the services, including without limitation any Deliverables, to be provided by the Service Provider under the contract as set out in Part A (Contract for Services) or the Specification (as applicable); and
- 1.1.16 **'Specification'** means the description or specification for the Services agreed in writing by Creative United and the Service Provider.

1.2 Construction

In these Conditions, the following rules apply:

- 1.2.1** a 'person' includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- 1.2.2** a reference to a party includes its personal representatives, successors or permitted assigns;
- 1.2.3** a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4** any phrase introduced by the terms 'including', 'include', 'in particular' or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- 1.2.5** a reference to 'writing' or 'written' includes email but not fax.
- 1.2.6** in the event of any conflict, inconsistency or ambiguity between the documents forming part of the Contract, the conflict shall be resolved in accordance with the following order of precedence (with the document listed first having priority):
 - (a) Part A (Contract for Services) or Order and Specification (as applicable);
 - (b) the Schedules;
 - (c) Part B (these Conditions); and
 - (d) any other documents as defined in clause 1.1.4.

2 Basis of Contract

- 2.1** The Order constitutes an offer by Creative United to purchase Services in accordance with these Conditions.
- 2.2** The Order shall be deemed to be accepted on the earlier of:
 - 2.2.1** the Service Provider issuing written acceptance of the Order; or
 - 2.2.2** any act by the Service Provider consistent with fulfilling the Order, at which point and on which date the Contract shall come into existence (Commencement Date).
- 2.3** These Conditions apply to the Contract to the exclusion of any other terms that the Service Provider seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3 The Service Provider's Obligations

- 3.1** The Service Provider shall from the Commencement Date and for the duration of this Contract provide the Services to Creative United in accordance with the terms of the Contract.
- 3.2** The Service Provider shall meet any performance dates notified to the Service Provider by Creative United. In providing the Services, the Service Provider shall:

- 3.2.1** provide the Services with the best care, skill and diligence in accordance with best practice in the Service Provider's industry, profession or trade, and in accordance with this Contract;
- 3.2.2** co-operate with Creative United in all matters relating to the Services, comply with all instructions of Creative United and use all reasonable endeavours to promote Creative United's interests;
- 3.2.3** not do or allow anything to be done which would or would be likely to bring Creative United into disrepute or adversely affect its or their reputation in any way;
- 3.2.4** provide and maintain all personnel, equipment and supplies necessary to provide the Services;
- 3.2.5** not accept work from other sources that will in any way impair or affect its ability to provide the Services and comply with the terms of the Contract;
- 3.2.6** ensure that the Services and Deliverables will conform with all descriptions and specifications set out in Part A (Contract for Services) or the Specification (as applicable), and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Service Provider by Creative United;
- 3.2.7** obtain and at all times maintain all necessary licences and consents, and comply with all applicable Law;
- 3.2.8** where applicable, observe all health and safety rules and regulations and any other security requirements that apply at any of Creative United's premises;
- 3.2.9** hold all materials, equipment and tools, drawings, specifications and data supplied by Creative United to the Service Provider ("Creative United Materials") in safe custody at its own risk, maintain Creative United Materials in good condition until returned to Creative United, and not dispose or use Creative United Materials other than in accordance with Creative United's written instructions or authorisation;
- 3.2.10** not do or omit to do anything which may cause Creative United to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Service Provider acknowledges that Creative United may rely or act on the Services; and
- 3.2.11** in addition to any additional requirements agreed between the parties, consult with Creative United regularly, but no less than at least once a month, or, at any point a significant decision is taken in relation to the Contract. After each meeting, the Service Provider will provide Creative United with a summary of the meeting for its approval.

4 Creative United's Remedies and Limitation of Liability

- 4.1** If the Service Provider fails to perform the Services by the applicable dates, Creative United shall, without limiting its other rights or remedies, have one or more of the following rights:

- 4.1.1** to terminate the Contract with immediate effect by giving written notice to the Service Provider;
- 4.1.2** to refuse to accept any subsequent performance of the Services which the Service Provider attempts to make;
- 4.1.3** to recover from the Service Provider any costs incurred by Creative United in obtaining substitute services from a third party;
- 4.1.4** where Creative United has paid in advance for Services that have not been provided by the Service Provider, to have such sums refunded by the Service Provider; or
- 4.1.5** to claim damages for any additional costs, loss or expenses incurred by Creative United which are in any way attributable to the Service Provider's failure to meet such dates.
- 4.1.6** These Conditions shall extend to any substituted or remedial services provided by the Service Provider.
- 4.2** Creative United's rights under this Contract are in addition to its rights and remedies implied by statute and common law.
- 4.3** To the fullest extent permitted by law, Creative United's total aggregate liability arising out of or in connection with this Contract, whether in contract, tort (including negligence), breach of statutory duty or otherwise, shall be limited to the amount of any fees properly due and unpaid by the Client to Creative United under this Contract.

5 Fees and Expenses

- 5.1** The Fees for the Services shall be set out in Part A (Contract for Services) or the Order (as applicable), and shall be the full and exclusive remuneration of the Service Provider in respect of the performance of the Services. Unless otherwise agreed in writing by Creative United, the Fees shall include every cost and expense of the Service Provider directly or indirectly incurred in connection with the performance of the Services.
- 5.2** The Service Provider shall invoice Creative United in accordance with the agreed invoice schedule. Each invoice shall include such supporting information required by Creative United to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.
- 5.3** In consideration of the supply of the Services by the Service Provider, Creative United shall pay the invoiced amounts within thirty (30) days of the date of a correctly rendered invoice to a bank account nominated in writing by the Service Provider.
- 5.4** All amounts payable by Creative United under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Service Provider to Creative United, Creative United shall, on receipt of a valid VAT invoice from the Service Provider, pay to the Service Provider such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

- 5.5** If a party fails to make any undisputed payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 3% per annum above Barclays Bank plc's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments that the defaulting party disputes in good faith.
- 5.6** The Service Provider shall maintain complete and accurate records of the time spent and materials used by the Service Provider in providing the Services, and shall allow Creative United to inspect such records at all reasonable times on request.
- 5.7** Creative United may at any time, without limiting any of its other rights or remedies, set off any liability of the Service Provider to Creative United against any liability of Creative United to the Service Provider, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract.

6 Freedom of Information, Confidentiality and Data Protection

- 6.1** Creative United is supported by Arts Council England and is funded by public money. As a consequence of this, Creative United may be required to co-operate with Arts Council England or other public authority to enable them to comply with a request for information made under the Freedom of Information Act 2000 ('the FOI Act'). This may potentially include a request for information relating to the Service Provider's business and the work the Service Provider will do for Creative United under the Contract ('Information Request').
- 6.2** The Service Provider shall notify Creative United as soon as possible if the Service Provider considers any information that it provides to Creative United to be confidential or covered by one or more of the other FOI Act exemptions. Notwithstanding this, Creative United shall be responsible for determining at its absolute discretion whether such information is exempt from disclosure in relation to an Information Request.
- 6.3** Creative United shall not be liable to the Service Provider for any loss or damage the Service Provider may suffer resulting from Creative United's disclosure of information to a public authority in response to an Information Request. This clause will not affect the Service Provider's rights under the Data Protection Legislation.
- 6.4** To the extent that the Service Provider is handling or processing data, the Service Provider shall at all times maintain a valid and up to date registration with the Information Commissioner's Office as required under the Data Protection Legislation covering the data processing to be performed in connection with the Contract.
- 6.5** Both parties will duly observe all their obligations under the Data Protection Legislation which arise in connection with the Contract.

- 6.6** To the extent that the Service Provider processes personal data as a processor for Creative United as controller (as defined by the Data Protection Legislation) it shall:
- 6.6.1** only process personal data in accordance with and for the purposes set out in Part A of this Contract;
 - 6.6.2** act only on documented instructions from Creative United in relation to its processing of the personal data unless it is required to process such personal data otherwise by Data Protection Legislation (Applicable DP Laws). Where the Service Provider relies on such Applicable DP Laws, it shall promptly notify Creative United of this before performing the processing so required unless the Applicable DP Laws prohibit the Service Provider from so notifying Creative United;
 - 6.6.3** implement and maintain in place appropriate technical and organisational measures to ensure that the personal data is kept secure and to guard against unauthorised or unlawful processing of the personal data and against accidental loss or destruction of, or damage to, the personal data, as required under the Data Protection Legislation;
 - 6.6.4** provide Creative United with such information as it may reasonably require to satisfy itself that the Service Provider is complying with its obligations under the Data Protection Legislation, particularly (but not limited to) in relation to security, breach notifications, impact assessments, consultations with supervisory authorities and the exercise of data subjects' rights;
 - 6.6.5** promptly (and in any event within 24 hours) notify Creative United of any breach of the security measures referred to in 6.6.4 above or of any other security incident relating to personal data;
 - 6.6.6** ensure that it does not knowingly or negligently do anything or omit to do anything or omit to do anything which places or is likely to place Creative United in breach of its obligations under the Data Protection Legislation;
 - 6.6.7** treat personal data as confidential information of Creative United;
 - 6.6.8** use and retain personal data only for the purposes of fulfilling its obligations under the Contract; and
 - 6.6.9** not transfer personal data to any country outside the United Kingdom without the prior written consent of Creative United (which consent Creative United may give on such terms as Creative United may in its absolute discretion prescribe) and ensure the following are fulfilled;
 - 6.6.9.1** Either of the parties has provided appropriate safeguards in relation to the transfer;
 - 6.6.9.2** The data subject has enforceable rights and effective legal remedies;
 - 6.6.9.3** The Service Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - 6.6.9.4** The Service Provider complies with reasonable instructions notified in advance by Creative United with respect to the processing of personal data;

6.6.10 Maintain complete and accurate records and information

- 6.7** The Service Provider shall not be obliged by clause 6.6 or any other provision of the Contract to do anything which would constitute a breach by the Service Provider of its obligations as a data processor and/or data controller under the Data Protection Legislation.
- 6.8** The Service Provider shall be liable for and covenants with Creative United to fully indemnify, defend and hold harmless Creative United for and against all and any damages, losses, liabilities, claims, actions, costs (on a full indemnity basis) and expenses (including the cost of legal and other professional services and out of pocket expenses (including the cost of legal and other professional services and out of pocket disbursements properly incurred), regardless of whether based in whole or in part on strict liability incurred), regardless of whether based in whole or in part on strict liability, wilful or intentional misconduct, or ordinary or gross negligence of Creative United or otherwise, which Creative United may suffer or incur (whether directly or indirectly) as a result or as a consequence of, or arising out of or in connection with, any claim relating to any breach by the Service Provider of its obligations under this clause 6 and/or the Data Protection Legislation.
- 6.9** Subject to clauses 6.1 and 6.2 inclusive, a party ("**receiving party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party ("**disclosing party**"), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 6.10** This clause 6 shall survive termination of the Contract.

7 Intellectual Property

- 7.1** In respect of any goods that are transferred to Creative United under the Contract, including without limitation the Deliverables or any part of them, the Service Provider warrants that:
- 7.1.1** it has full clear and unencumbered title to all such items;
 - 7.1.2** at the date of delivery of such items to Creative United, it will have full and unrestricted rights to transfer all such items to Creative United; and

- 7.1.3** to the extent that it is required to grant a licence or sub-licence to Creative United in respect of Creative United's use of the goods, it has the right to enter into such a licence and to grant to Creative United a licence or sub-licence to use the goods as contemplated by the Contract;
- 7.2** The Service Provider assigns to Creative United, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.
- 7.3** The Service Provider shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 7.4** The Service Provider shall, promptly at Creative United's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Creative United may from time to time require for the purpose of securing for Creative United the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to Creative United in accordance with clause 7.2.
- 7.5** All Creative United Materials (as defined in clause 3.1.9) are the exclusive property of Creative United.

8 Indemnity

- 8.1** The Service Provider shall keep Creative United indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, future revenue, anticipated savings, loss of reputation or goodwill and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by Creative United as a result of or in connection with:
 - 8.1.1** any claim brought against Creative United for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services or any goods that are transferred to Creative United under the Contract, to the extent that the claim is attributable to the acts or omissions of the Service Provider, its employees, agents or subcontractors;
 - 8.1.2** any breach by the Service Provider of the warranties contained in clauses 7.1 or 16.3 ; and
 - 8.1.3** any claim made against Creative United by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Service Provider, its employees, agents or subcontractors.
- 8.2** This clause 8 shall survive termination of the Contract.

9 Right of Audit

- 9.1** The Service Provider must keep secure and maintain full and accurate records of the Services it provides to Creative United, including all paid expenses and the payments Creative United make to the Service Provider.
- 9.2** These records must be kept secure and maintained for at least two years after the final payment Creative United make under the Contract, or for longer periods if agreed or required by Law.
- 9.3** The Service Provider must allow Creative United access to any records Creative United may reasonably require to check your compliance with the Contract.

10 Conflict of Interest

The Service Provider shall ensure that neither it nor any of its employees, agents or sub-contractors are placed in a position where there is or may be an actual conflict, or a potential conflict, between its interests or the interests of its employees, agents or sub-contractors and its obligations under the Contract. The Service Provider shall immediately disclose to Creative United the particulars of any conflict of interest that arises.

11 No Partnership or Agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

12 Insurance

- 12.1** For the duration of the Contract, the Service Provider must maintain appropriate insurance cover with a reputable insurance company. Appropriate insurance means a policy or policies of insurance providing an adequate level of cover for all risks the Service Provider may take on by providing the Services and for all legislative or other legal requirements the Service Provider may be under.
- 12.2** If Creative United request the Service Provider to do so the Service Provider must show Creative United evidence that the insurances as required by this Clause 12 are being maintained at the Service Provider's expense.

13 Termination

- 13.1** Without limiting its other rights or remedies, Creative United may terminate the Contract by giving the Service Provider one (1) months' written notice.
- 13.2** Without limiting its other rights or remedies, Creative United may terminate the Contract with immediate effect by giving written notice to the Service Provider if:
 - 13.2.1** the Service Provider commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;

- 13.2.2** the Service Provider repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;
- 13.2.3** the Service Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 13.2.4** the Service Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Service Provider with one or more other companies or the solvent reconstruction of the Service Provider;
- 13.2.5** a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Service Provider (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Service Provider with one or more other companies or the solvent reconstruction of the Service Provider;
- 13.2.6** the Service Provider (being an individual) is the subject of a bankruptcy petition order;
- 13.2.7** a creditor or encumbrancer of the Service Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- 13.2.8** an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Service Provider (being a company);
- 13.2.9** a floating charge holder over the assets of the Service Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 13.2.10** a person becomes entitled to appoint a receiver over the assets of the Service Provider or a receiver is appointed over the assets of the Service Provider;
- 13.2.11** any event occurs, or proceeding is taken, with respect to the Service Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 13.2.3 to clause 13.2.10 (inclusive);
- 13.2.12** the Service Provider suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business;

- 13.2.13** the Service Provider (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation;
- 13.2.14** the Service Provider breaches clause 18;
- 13.2.15** the Service Provider assigns any of its obligations under the Contract without Creative United's prior written consent; or
- 13.2.16** the Service Provider merges with any other company or the Service Provider becomes owned or controlled by any other company without Creative United's prior agreement.
- 13.3** Creative United may give the Service Provider written notice of its intention to terminate if it considers that a termination ground listed in section 78(2) of the Procurement Act 2023 applies. A notice of an intention to terminate under this clause must:
 - 13.3.1** Set out which termination ground Creative United considers applies pursuant to section 78(2) of the Procurement Act 2023, together with Creative United's reasons for deciding to terminate on this basis;
 - 13.3.2** Invite the Service Provider to make representations to Creative United about the existence of the termination ground and Creative United's decision to terminate;
 - 13.3.3** Specify the means by which, and the time by which such representations must be made ; and
 - 13.3.4** Insofar as it states Creative United's intention to terminate by reference to the status of a sub-contractor under section 78(2)(b) or (c) of the Procurement Act 2023 , specify a time by which the Service Provider may terminate the subcontract and, if necessary, appoint an alternative subcontractor.
- 13.4** Upon termination under clause 13.2 or 13.3, Creative United may obtain the remainder of the Services from a third party. The Service Provider shall pay Creative United the difference between:
 - 13.4.1** the amount Creative United pay the third party to complete the remainder of the Services; and
 - 13.4.2** the amount that Creative United would have paid the Service Provider for the remainder of the Services under the Contract, had the Contract continued in force,
together with any other costs Creative United may have to pay as a direct consequence of terminating the Contract.
- 13.5** On termination of the Contract for any reason, the Service Provider shall immediately deliver to Creative United all Deliverables whether or not then complete, and return all Creative United Materials (as defined in clause 3.1.9). Until they have been returned or delivered, the Service Provider shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.
- 13.6** Termination of the Contract, howsoever arising, shall not affect any right of action or remedy of either party that have accrued as at termination.

- 13.7** Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

14 Force Majeure

- 14.1** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under it if such delay or failure result from events, circumstances or causes beyond its reasonable control.
- 14.2** The Service Provider shall use all reasonable endeavours to mitigate the effect of a Force Majeure Event on the performance of its obligations.
- 14.3** If a Force Majeure Event prevents, hinders or delays the Service Provider's performance of its obligations for a continuous period of more than 30 Business Days, Creative United may terminate the Contract immediately by giving written notice to the Service Provider.

15 Equality

- 15.1** The Service Provider shall comply with all applicable equality and anti-discrimination legislation from time to time in force including the Equality Act 2010 and any statutory codes of practice issued by the Equality and Human Rights Commission.
- 15.2** When working at Creative United's premises, the Service Provider must comply with Creative United's employment policy and codes of practice relating to racial discrimination and equal employment opportunities.

16 Protection of Children and Vulnerable Adults

- 16.1** This clause will only apply if Service Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
- 16.2** The Service Provider shall:
- 16.2.1** Ensure that all individuals engaged in the Regulated Activity are subject to valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS);
 - 16.2.2** Monitor the level and validity of the checks under this clause 16.2 for each member of staff; and
 - 16.2.3** Not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.
- 16.3** The Service Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Service Provider in the provision of the Services is barred from the activity in accordance with the provision of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder.

- 16.4** The Service Provider must adopt and carry out a written policy and set of procedures to protect Vulnerable Persons if:
- 16.4.1** the Service Provider are a company or partnership, or the Service Provider are an individual who employs other persons; and
 - 16.4.1** in the course of providing the Services, or its employees or its contractors supervise, care for or have significant direct contact with Vulnerable Persons.
- 16.5** As part of the procedures mentioned in clause 16.4, the Service Provider must check the backgrounds of and view disclosures from the Disclosure and Barring Service for its potential employees, contractors or volunteers who will, in the course providing the Services, supervise, care or otherwise have significant direct contact with Vulnerable Persons.
- 16.6** Where the Service Provider is an individual and in the course of providing the Services, direct contact with a Vulnerable Person(s), he/she shall, prior to any direct contact with the Vulnerable Person(s), provide details of his/her background and disclosures from the Disclosure and Barring Service to the Vulnerable Person's legally authorised carer or guardian if required.
- 16.7** The Service Provider shall comply with Clause 16.6 even if they are not required to do so under any child protection or care standards legislation and even if the work is formal, informal, voluntary or salaried.
- 16.8** Creative United cannot advise the Service Provider of its legal obligations in relation to its dealings with Vulnerable Persons, and this clause should not be seen as such. If the Service Provider has any queries about its obligations, Creative United strongly advise that the Service Provider seeks its own independent legal advice and also contact the National Society for Prevention of Cruelty to Children (www.nspcc.org.uk).

17 Health and Safety

The Service Provider must comply with the Health and Safety at Work Act 1974, the Management of Health and Safety at Work Regulations 1999, and all other regulations and approved codes of practice relevant to the services.

18 Prevention of Corruption

- 18.1** The Service Provider shall:
- 18.1.1** comply with all applicable Law relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ('**Relevant Requirements**');
 - 18.1.2** not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
 - 18.1.3** comply with Creative United's Ethics, Anti-bribery and Anti-corruption policies (annexed to this Contract at schedule **[INSERT]**) as may be updated by Creative United from time to time ('**Relevant Policies**');

- 18.1.4** have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies (if applicable) and clause 18.1.2, and will enforce them where appropriate;
 - 18.1.5** promptly report to Creative United any request or demand for any undue financial or other advantage of any kind received by the Service Provider in connection with the performance of the Contract;
 - 18.1.6** within one month of the date of the Contract, and annually thereafter, certify to Creative United in writing signed by an officer of the Service Provider, compliance with this clause 18 by the Service Provider and all persons associated with it under clause 18.2. The Service Provider shall provide such supporting evidence of compliance as Creative United may reasonably request.
- 18.2** The Service Provider shall ensure that any person associated with the Service Provider who is performing services or providing goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Service Provider in this clause 18 ('Relevant Terms'). The Service Provider shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to Creative United for any breach by such persons of any of the Relevant Terms.
- 18.3** For the purpose of this clause 18, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 18 a person associated with the Service Provider includes but is not limited to any subcontractor of the Service Provider;
- 18.4** In performing its obligations under the Contract, the Service Provider shall:
 - 18.4.1** comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;
 - 18.4.2** have and maintain throughout the term of this Contract its own policies and procedures to ensure its compliance; and
 - 18.4.3** include in its contracts with its subcontractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 18.4.

19 Notices

19.1 Either party may send notices, letters and other documents by prepaid first class recorded delivery post to the other party to the address of its registered office.

19.2 In order to be valid, any notice required under this Contract must also be sent by email to the following address or such other address as may be notified to the other party in accordance with this clause, on not less than five days' prior written notice:

19.2.1 Service Provider []

19.2.2 Creative United: []

20 Disputes

20.1 The parties will attempt to settle between themselves any dispute which may arise between them under the Contract.

20.2 If a dispute is not resolved to the satisfaction of both parties within 10 Business Days, the parties will attempt to settle the dispute by mediation under the Centre for Effective Dispute Resolution's (CEDR's) Model Mediation Procedure.

20.3 To begin mediation, either party shall give written notice to the other party requesting mediation. The initiating party must send a copy of such request to CEDR.

20.4 If there is any issue in relation to the conduct of the mediation (including nomination of the mediator) upon which the parties cannot agree within a reasonable time, CEDR will, at the request of any party, decide the issue for them.

20.5 If the dispute is not resolved within 90 calendar days of the initiation of the mediation, or if either party refuses to participate in the mediation, either party may begin legal proceedings.

20 Contracts (Rights of Third Parties) Act 1999

As provided in the Contracts (Rights of Third Parties) Act 1999, unless otherwise expressly stated in the Contract, a person who is not a party to the Contract shall not have any rights to enforce its terms.

22 Change and Assignment

22.1 Creative United may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

22.2 The Service Provider may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Creative United.

23 Waiver

The failure of either party to exercise any right or remedy will not constitute a waiver of that right or remedy. A waiver is only effective if provided to the other party in writing.

24 Severance

If any part of the Contract is or becomes legally ineffective or unenforceable it will not affect the validity of the rest of the Contract.

25 Whole Agreement

The Contract contains the whole agreement between the parties relating to the Services and replaces all previous agreements between the parties relating to that subject matter.

26 Governing Law

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

27 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

28 Costs

Each party will pay its own costs for preparing and carrying out the Contract.

29 Variation

Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by Creative United.