

FREEDOM SEARCH LIMITED CONDITIONS OF CONTRACT FOR THE SUPPLY OF SERVICES

1. DEFINITIONS

- 1.1. In these Conditions, the following words shall have the following meanings: **“AdWords”** shall mean the word(s) and/or phrases which the Customer wishes to purchase and which Freedom Search agrees to provide subject to these Conditions; **“Customer”** shall mean the person, firm, company or other corporation who places an order with Freedom Search or otherwise agrees to buy from Freedom Search any of the Adwords or Services; **“Conditions”** shall mean these conditions of sale between Freedom Search and the Customer as set out in this document; **“Contract”** shall mean the Customer’s acceptance of a quotation for the AdWords or Services; **“Freedom Search”** shall mean FREEDOM SEARCH LIMITED whose registered office address is Suite 5c Millenium Office Park, Preston PR2 5DB; **“Google”** shall mean the website Google.com and the search engine facilities provided therein; **“Initial Payment”** shall mean the amount agreed between the Parties to activate the Services together with the first Monthly Fee; **“Monthly Fee”** shall mean the amount agreed between the Parties for the provision of the Services per month; **“Party”** shall mean a party to the Contract and **“Parties”** shall be construed accordingly; **“Services”** shall mean any or all of the services which from time to time Freedom Search contracts to supply.

2. APPLICATION

- 2.1. The following provisions shall apply to any Contract between Freedom Search and a Customer arising from any proposal referring to these Conditions and shall prevail over any terms or conditions which the Customer may purport to apply whether in correspondence or under a purchase order, confirmation of order or similar document, and any implied from a course of dealing. No variation or qualification of these Conditions or of any Contract shall be valid unless agreed in writing by a director of Freedom Search.

3. PROPOSAL

- 3.1. Freedom Search’s proposal constitutes an invitation to treat and no Contract between Freedom Search and the Customer shall arise unless and until Freedom Search has accepted in writing the Customer’s order placed in accordance with Freedom Search’s quotation.
- 3.2. Unless previously withdrawn, all proposals given by Freedom Search are valid for a period of thirty days or such other period expressly specified in writing by Freedom Search.
- 3.3. Unless otherwise expressly specified, all prices quoted shall be exclusive of Value Added Tax and of all other taxes or duties which may be imposed on sales.

4. SUPPLY OF SERVICES

- 4.1. Freedom Search shall supply the Services using reasonable skill and care and in accordance with these Conditions.
- 4.2. Freedom Search and the Customer shall use all reasonable endeavours to agree the Adwords during the provision of the Services. The Customer acknowledges that:
- 4.2.1. the AdWords are generic and, subsequently, are not exclusive to either the Customer or Freedom Search; and
 - 4.2.2. the Adwords are subject to Google’s review process and display of the AdWord link may be suspended or delayed until Google verifies that the advertisement and associated content therein adhere to Google’s advertising policies; and
 - 4.2.3. Freedom Search does not warrant the effectiveness of the AdWords in terms of promoting the Customer’s website.
- 4.3. Freedom Search reserves the right to immediately remove the link to the AdWords from Google’s website without notice in the event that:
- 4.3.1. the Customer fails to pay any sums owing to Freedom Search on or before the due date; or
 - 4.3.2. the Contract is terminated in accordance with these Conditions; or
 - 4.3.3. Freedom Search or any third party determines that the Customer’s uniform resource locator is inaccurate; or
 - 4.3.4. the Customer’s website is found to be distributing and/or hosting malicious software; or
 - 4.3.5. Google suspends or ceases to provide a website search engine applicable to the United Kingdom
- 4.4. Freedom Search shall use reasonable endeavours to comply with any dates stated for delivery of the Services but any such dates are estimates and given by way of general information only. In the event of failure to deliver within such times for any cause whether within or outside Freedom Search’s reasonable control, the same shall not be a breach or repudiation of the Contract and Freedom Search shall not be liable for any loss or damage suffered by the Customer as a result of such delay.
- 4.5. In the event that Freedom Search’s performance of any of its obligations under the Contract is delayed or prevented by any act or omission by the Customer or failure by the Customer to fulfil any of its obligations (“Customer Default”):

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- 4.5.1. Freedom Search shall have the right to suspend performance of the Services until the Customer remedies the Customer Default (such right shall be in addition to the other rights and remedies available to Freedom Search under statutory law); and
- 4.5.2. Freedom Search shall not be liable for any costs or losses incurred or sustained by the Customer arising directly or indirectly from Freedom Search's delay or failure to perform any of its obligations as set out in this clause 4. For the avoidance of doubt, the Customer shall remain liable for the Monthly Fee during any period that Freedom Search suspends performance of the Services.
- 6.5. Freedom Search reserves the right to alter any of its charges without notice and the relevant fee shall be that ruling at the date of acceptance by Freedom Search of the Customer's offer to purchase the Services
- 6.6. Any amounts due for payment but outstanding shall be subject to the addition of Statutory Interest in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998 and the Rate of Interest Order current at the time of debt.
- 6.7. The Customer shall pay all amounts owing under the Contract in full without any deduction, set-off or withholding.

5. AMENDMENTS

- 5.1. Any amendments which the Customer wishes to make to the scope or execution of the Services shall be submitted in writing to Freedom Search.
- 5.2. Following receipt of such request, Freedom Search shall provide a written estimate to the Customer of:
- 5.2.1. the anticipated time required to effect the change; and
- 5.2.2. any associated additional charges arising from the change; and
- 5.2.3. any other effect that the change may have on the Contract.

- 5.3. Freedom Search shall reserve the right to charge for any time spent assessing a request by the Customer for a change to the scope or execution of the Services.

6. CHARGES AND PAYMENT

- 6.1. In consideration of Freedom Search supplying the Services, the Customer shall pay Freedom Search the Initial Payment and the Monthly Fee on a calendar monthly basis thereafter. The Initial Payment shall be payable in full no later than the date requested by Freedom Search and the Monthly Fee shall be payable in arrears on the date agreed by the Parties.
- 6.2. Time for payment shall be of the essence of the Contract.
- 6.3. The Contract shall commence on the date upon which Freedom Search receives the Initial Payment in cleared funds in its nominated bank account and, subject to the Customer paying the Monthly Fee, shall continue in full force and effect until terminated by either Party in accordance with the provisions of these Conditions (unless the Parties shall agree otherwise in writing).
- 6.4. Freedom Search shall not be obliged to supply the Services until it has received the Initial Payment.

- 6.8. Freedom Search reserves the right to increase the Monthly Fee subject to:
- 6.8.1. the Customer being given one month's prior written notice of Freedom Search's intention to do so; and
- 6.8.2. any such increase to the Monthly Fee occurring only once during any six month period.

7. SUSPENSION

- 7.1. Freedom Search reserves the right to suspend the AdWords advertisement link without notice if, in its sole opinion, Freedom Search believes that:
- 7.1.1. the Customer's website contains defamatory or derogatory material or content; and/or
- 7.1.2. the Customer's website infringes any third party's intellectual property rights; and/or
- 7.1.3. the Customer's website is found to be hosting or distributing malicious software; and/or
- 7.1.4. the AdWords advertisement link is subject to, or is being affected by:
- 7.1.4.1. any fraudulent internet activity; and/or
- 7.1.4.2. spam attack; and/or
- 7.1.4.3. any unusual or excessive use (which shall include, but not be limited to, the number of clicks on the AdWord advertisement link).
- 7.2. For the avoidance of doubt, Freedom Search shall have no liability to the Customer for any loss, damage and/or costs incurred in connection with any of the activities stated in clause 7.1 and the safe and secure operation of the Customer's website shall at all times remain the sole responsibility of the Customer.

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8. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

- 8.1. The Customer shall keep in strict confidence all commercial or technical know-how, specifications, inventions, processes or initiatives; and any information concerning Freedom Search's business or the Services which are disclosed to the Customer by Freedom Search during the provision of the Services.
- 8.2. All rights and title in inventions, methods and know-how and the copyright in all such material shall at all times remain the property of Freedom Search.
- 8.3. The obligations of this clause 8 shall survive termination of the Contract.

9. TERM AND TERMINATION

- 9.1. Subject to the Customer paying the Monthly Fee, Freedom Search shall continue to provide the AdWords until the Contract is terminated by either Party in accordance with the provisions of these Conditions.
- 9.2. Notwithstanding the provisions of this clause 9, either Party may terminate the Contract by providing prior written notice to the other Party of its intention. **Upon receipt of such notice, both Parties agree that their obligations under the Contract shall expire on the last day of the month following the next date for payment due under the Contract. For the avoidance of doubt, the Customer shall remain liable to pay the Monthly Fee to Freedom Search up to and including the date of expiry of its obligations in accordance with this clause 9.2.**
- 9.3. Freedom Search may terminate the Contract with immediate effect by written notice if the Customer commits a material or persistent breach of the Contract (and in the case of a breach capable of remedy) fails to remedy it within seven (7) days of receipt of a written notice from Freedom Search specifying the breach and containing a warning of an intention to terminate if the breach is not remedied.
- 9.4. This Agreement may be terminated with immediate effect at any time by either Party serving written notice of termination to the other, in the event that:
 - 9.4.1. an encumbrancer takes possession or an administrative receiver or receiver or similar officer is appointed of the whole or any part of the other Party's business or property; or
 - 9.4.2. the other Party makes an assignment for the benefit of its creditors, or other similar arrangement; or

- 9.4.3. proceedings under any bankruptcy or insolvency law are commenced by the other Party or are commenced against it.

10. LIMITATION OF LIABILITY

- 10.1. **To the fullest extent permitted by law, Freedom Search's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Contract shall be limited to the total amount paid to Freedom Search by the Customer in respect of the AdWords.**
- 10.2. **Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including, but not limited to, any actual or anticipated economic loss or other loss of turnover, profits, contracts, business or goodwill or loss of corruption of data or information.**
- 10.3. **All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.**

11. INDEMNITY

- 11.1. Without prejudice to any other rights or remedies available to Freedom Search, the Customer shall at all times whether the Contract is in force or afterwards indemnify Freedom Search and keep Freedom Search indemnified against all losses, costs (on a full indemnity basis) claims, demands, awards and expenses arising as a result directly or indirectly of:-
 - 11.1.1. any breach of the Customer's obligations under the Contract;
 - 11.1.2. any act, neglect, or default of the Customer; and
 - 11.1.3. any breach by the Customer of any statute regulation or requirement of central or local government having the force of law for which Freedom Search is held responsible as a result of or arising out of the entering into of the Contract.

12. NOTICES

- 12.1. Any notice required to be served pursuant to these Conditions shall be served in writing as follows:-
 - 12.1.1. notices to Freedom Search: to Pathways – Unit 3, Blackpool Road, Preston PR4 3RJ or such other address as it may from time to time notify to the Customer;

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- 12.1.2. notices to the Customer: to such address as the Customer may notify to Freedom Search or, in default or notification, to such address as appears on any order by the Customer, or if the Customer is a company, at Freedom Search's option to the Customer's registered office.
- 12.2. For the purposes of the Contract, a notice served shall be deemed to have been received:
- 12.2.1. if delivered by hand, when left at the address for service provided for in Condition 12.1; or
- 12.2.2. if sent by prepaid first class post to the address for service provided for in the Condition 12.1 forty-eight hours after being posted (excluding Saturdays, Sundays and Bank or other public holidays in England).
- 12.3. Where, in the case of delivery by hand, such delivery occurs on a day which is Saturday, Sunday or bank or public holiday in England or after 4.00pm on any other day, service will be deemed to occur on the following working day.
- 13. FORCE MAJEURE**
- 13.1. Without prejudice to the generality of any of the foregoing conditions, Freedom Search shall not be liable for any loss or damage caused by the non-performance or delay in the performance of any of its obligations hereunder of the same is occasioned by any clause whatsoever which is beyond the reasonable control of Freedom Search, including but not limited to Acts of God, war, civil disturbance, requisitioning, import or export regulations, strike, lock-out or trade dispute, breakdown of machinery, fire or accident. Should any such event occur Freedom Search may at its option suspend or be discharged from further performances of this or any other contract to which Freedom Search is a party on the terms that Freedom Search shall (at its own discretion) be entitled to payment of the contract price less a reasonable allowance (as determined by Freedom Search) for what has not been performed by Freedom Search and incur no liability for any loss or damage thereby occasioned.
- 14. ASSIGNMENT**
- 14.1. The rights and obligations hereunder shall not be capable of assignment sub-contracting or other disposal by the Customer without the prior written consent of Freedom Search.
- 15. GENERAL**
- 15.1. The Contract is personal to the Customer who may not without the written consent of Freedom Search assign, mortgage, charge or dispose of any of its rights under the Contract or sub-contract or otherwise delegate any of its obligations under the Contract. Freedom Search may assign or sub-contract its rights or obligations under the Contract.
- 15.2. Nothing in the Contract shall create or be deemed to create any agency or partnership between the parties.
- 15.3. The Contract contains the entire agreement between the parties with respect to its subject matter, supersedes all previous agreements and understandings between the parties and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.
- 15.4. Any failure by Freedom Search to exercise any rights under the Contract shall not constitute a waiver or prevent the subsequent exercise of such rights. A waiver by Freedom Search of any breach of the Contract by the Customer will not be construed as a waiver of any subsequent breach of the same or any other provision.
- 15.5. Each right or remedy of Freedom Search under the Contract is without prejudice to any other right or remedy of Freedom Search whether under the Contract or not.
- 15.6. If any provision is held by any court or other competent authority to be void or unenforceable in whole or part the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.
- 15.7. A person who is not a Party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of these Conditions but this does not affect any right or remedy available to a third party other than that Act.
- 15.8. The Contract shall be governed by and construed in all respects in accordance with the laws of England and Wales and the Customer agrees to submit to the exclusive jurisdiction of the English courts.