

CODEBREAK GROUP LIMITED
TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

LAST UPDATED TUESDAY 16 JULY 2024

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

- **Business Day:** a day other than a Saturday, Sunday, or public holiday in England, when banks in London are open for business.
- **Commencement Date:** has the meaning given in clause 2.2.
- **Conditions:** these terms and conditions as amended from time to time in accordance with clause 11.4.
- **Contract:** the contract between You and Us for the supply of Services in accordance with these Conditions.
- **Contract Minimum Term:** a period of four months, terminable by notice in writing in accordance with clause 9.
- **Contract Term:** If paying monthly, the contract term is a minimum of four months terminable by three months' notice in writing in accordance with clause 9. If choosing to pay for a longer period in order to receive a discount (e.g., 12 months), that timeframe becomes the contract term, terminable by three months' notice in writing in accordance with clause 9.
- **Client:** "You" / "Your".
- **Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.
- **UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
- **Intellectual Property Rights:** patents, rights to inventions, copyright and rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.

- **Your Order:** the order for Services provided by Us, as agreed with Us, and made in accordance with these Conditions and the Contract.
- **Our Materials:** has the meaning set out in clause 4.1.
- **Personal Data:** has the meaning ascribed to it in the Data Protection Legislation.
- **Prices:** the charges payable by You for the supply of the Services in accordance with clause 5.
- **Project:** the design and build of a website, brand identity services, or a one-off marketing project.
- **Retained Services:** Ongoing marketing services as set out in Schedule 2.
- **Services:** the services that we provide to you in accordance with these Terms as set out on our Website as amended from time to time and specific to You, as set out in Schedule 1.
- **We” / “Us” / “Our”:** Codebreak Group Limited, trading as Codebreak, whose registered office is at 4 The Creative Quarter, Shrewsbury Business Park, Shrewsbury, United Kingdom, SY2 6LG registered in England and Wales with company number 09836360.

1.2 Interpretation:

(a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision. (b) Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms. (c) A reference to writing or written includes email but not fax.

2. Basis of contract

2.1 Your Order constitutes an offer to purchase Services and hire Us in accordance with these Conditions, and We can accept your Order by email.

2.2 Your Order shall only be deemed to be accepted when We issue written acceptance of Your Order (by this We mean via an email) at which point and on which date a Contract shall come into existence between You and Us (Commencement Date). This is important, so make sure You understand that.

2.3 Any samples, drawings, descriptive matter or advertising issued by Us, and any descriptions or illustrations contained in Our catalogues or brochures, or social media of any form, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of Your Contract with Us, or have any contractual force and all Intellectual Property Rights as may be applicable shall belong to Us absolutely.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that You seek to add, impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 Any quotation given by the Us, shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. Supply of Our Services to You - the important bit!

3.1 We shall supply the Services to You in accordance with these Conditions and Our Contract, in all material respects. Please note that we may change these Conditions from time to time. The Conditions that apply to You are the ones we tell You about at the time You place your Order with Us, We recommend you check Our website for any updates to these Conditions from time to time.

3.2 As part of your journey with Us, We shall use all reasonable endeavours to meet any performance dates specified in your instructions to Us, but any such dates shall be estimates only, and time shall not be of the essence for performance of the Services and We promise we have the skill and the experience and ability to perform the Services for You.

3.3 However, You must understand that we need to reserve the right to amend the Services, if necessary, to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and We will tell You if this is necessary.

4. Your obligations

4.1 As Our Client, You confirm that You have the power to enter into this Contract on behalf of Your company or organisation, if applicable.

4.2 In addition, to help Us do the best possible job for You, You agree that you shall:

(a) ensure that the terms of the Order are complete and accurate in a timely manner; (b) co-operate with Us in all matters relating to the Services; (c) provide Us with such information and materials as We may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects; (d) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; (e) agree to review our Services, and provide any feedback on Our Services in a timely manner as You will appreciate that compliance with deadlines in connection with the Services works both ways; (f) agree to keep all information including passwords and security information safe and secure, private and confidential. We cannot be held responsible for any breaches of security or hacks, or any other forms of breaches of security that may occur during the provision of the Services we provide to You. (g) warrant that any material You provide to Us, that You own the or all any Intellectual Property Rights and copyright to it, and you accept all risk and responsibility for it. You grant to Us the right to edit, copy, publish, distribute, translate and otherwise use it in any medium and for any purpose, and you agree to indemnify Us in the event that you are in breach of this Contract for any losses flowing whether directly or indirectly from the use of such materials; (h) agree that You grant Us a non-exclusive, irrevocable, royalty-free, right in perpetuity to use Your material in the provision of the Services.

4.3 If Our performance of any of the obligations under the Contract is prevented or delayed by You, or failure by You to perform any relevant obligation (Your Default):

(a) without limiting or affecting any other right or remedy available to Us, then We shall have the right to suspend performance of the Services until You remedy Your Default, and We

shall rely on Your Default to relieve Us from the performance of any of Our obligations in each case to the extent the Your Default prevents or delays the performance of Our obligations, this will include a failure to make payment of our Charges, whether requested or not; (b) We shall not be liable for any costs or losses sustained or incurred by You arising directly or indirectly from the Our failure or delay to perform any of its obligations as set out in this clause 4.3; and (c) You shall reimburse Us on written demand for any costs or losses sustained or incurred by Us, arising directly or indirectly from Your Default.

5. Charges and payment

5.1 The Charges for the Services shall be calculated depending upon the type of Services you buy from Us. You agree to pay Us via Direct Debit or Card Charging or other form of electronic transfer as notified to You by Us, from time to time. Once Services have started, You may cancel the Services at any time on giving us notice as set out in clause 9. Payment will be due for the full Contract Term in accordance with clause 9.

5.2 Your Order will set out the Services agreed upon and provided. If for example, Your Order is for Services and that is a Project, we require You to pay Us in cleared funds 50% of the fees chargeable in accordance with these Conditions and the final, remaining 50% by no later than 8 weeks from the Commencement Date or completion of the Project, whichever is sooner. If for example, You are buying Services from Us that involve support and marketing advice, together with input into Your own campaigns, this will be on a time and materials basis as agreed between You and Us;

5.3 We reserve the right to increase the Charges on an annual basis, or in line with other costs and charges due to changes in the law, which We may have to pass on to you. These increases will take effect from each anniversary of the Commencement Date or when We deem reasonable and necessary.

5.4 We shall invoice You either on completion of the Services or on a weekly or monthly basis, depending upon the type of Services You have agreed with Us.

5.5 You shall pay each invoice submitted by Us:

(a) prior to the due date of the invoice; and (b) in full and in cleared funds to a bank account nominated in writing by Us, and time for payment shall be of the essence of the Contract.

5.6 All amounts payable by You under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT).

5.7 If You fail to make a payment due to Us under the Contract by the due date, then, without limiting Our remedies under clause 9, You shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

6. Intellectual property rights

6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by You) shall be owned by Us unless we agree to transfer them to You.

6.2 You grant Us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by You to Us for the term of the Contract for the purpose of providing the Services to You.

7. Data protection

7.1 We agree with You, and You with Us, that we shall both comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

7.2 We both acknowledge that for the purposes of the Data Protection Legislation, You are the Controller and We are the Processor.

7.3 Without prejudice to the generality of this clause 7, You will ensure that You have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Us and/or lawful collection of the Personal Data by Us on Your behalf for the duration and purposes of this Contract.

7.4 You consent to Us appointing third-party processors of Personal Data under this Contract where necessary in furtherance of the Services.

8. Limitation of liability: YOUR ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

8.1 References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

8.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.

8.3 Nothing in this clause 8 shall limit Your payment obligations under the Contract.

8.4 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:

(a) death or personal injury caused by negligence; (b) fraud or fraudulent misrepresentation; and (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.5 Subject to clause 8.2 (No limitation in respect of deliberate default), and clause 8.4 (Liabilities which cannot legally be limited), Our total liability to You is limited to the Contract sum for the Services as set out herein, howsoever agreed.

8.6 Subject to clause 8.2 (No limitation in respect of deliberate default), clause 8.3 (No limitation of Your payment obligations) and clause 8.4 (Liabilities which cannot legally be limited), this clause 8.6 sets out the types of loss that are wholly excluded:

(a) loss of profits. (b) loss of sales or business. (c) loss of agreements or contracts. (d) loss of anticipated savings. (e) loss of use or corruption of software, data or information. (f) loss of or damage to goodwill; and (g) indirect or consequential loss.

8.7 This clause 8 shall survive termination of the Contract.

9. Termination

9.1 Without affecting any other right or remedy available to it, either party may terminate the Contract for Retained Services by giving the other party three months' written notice, but in compliance with the Contract, You must sign for a Contract Minimum Term. So You would, for example, have to serve notice at month one in order to end the Contract at four months. Please note that you are liable for the full four months the Contractual Term period Charges, in the event of early termination during the Contract Term, whether you remain with Us during the Contract Term, or not.

9.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 10 days of that party being notified in writing to do so; (b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; (c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or (d) the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.3 Without affecting any other right or remedy available to it, We may terminate the Contract with immediate effect by giving written notice to You if:

(a) You fail to pay any amount due under the Contract on the due date for payment; or (b) You cancel your payment instruction.

9.4 Without affecting any other right or remedy available to Us, We may suspend the supply of Services under the Contract or any other contract between You and Us if:

(a) You fail to pay any amount due under the Contract on the due date for payment; (b) You do not comply with Your obligations in clause 4; (c) You, if you are a company or a business individual, become subject to any of the events listed in clause 9.2(c) or clause 9.2(d), or We reasonably believe that You are about to become subject to any of them; and (d) We reasonably believe that You are about to become subject to any of the events listed in clause 9.2(b).

10. Consequences of termination

10.1 On termination or expiry of the Contract in whatever way:

(a) You shall immediately pay to Us all of Our outstanding unpaid invoices and interest and, for the unexpired residue of the Contractual Term, in respect of Services supplied but for which no invoice has been submitted, We shall submit an invoice, which shall be payable by You immediately on receipt; (b) You shall return all of Our Materials which have not been fully paid for.

10.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

10.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

11. General

11.1 **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control, including Covid 19 lockdowns and strike actions as a result of lockdowns, and also including any industrial dispute affecting any third party, governmental regulations, fire, flood, disaster, civil riot or war.

11.2 **Confidentiality.** Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract. You will not divulge any information in any format at all whatsoever, including all Intellectual Property Rights to anybody else without Our permission.

11.3 **Entire agreement.** (a) The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. (b) Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract. (c) Nothing in this clause shall limit or exclude any liability for fraud.

11.4 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.5 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

11.6 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract deleted under this clause 11.6 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.7 Notices. (a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to a previously notified email address. (b) Any notice or communication shall be deemed to have been received: (i) if delivered by hand, at the time the notice is left at the proper address; (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or (iii) if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 11.7(b)(iii), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt. (c) This clause 11.7 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

11.8 Third party rights. (a) Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract. (b) The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

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

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

Schedule 1 The Project Services

Codebreak's services may include (depending on the agreed proposal):

- Website design and development
 - Brand identity design (logo design, business stationery design, uniform design etc)
 - Signage design
 - Social media branding
 - Social media content creation (which may include video, podcasts, microcasts, and copy)
 - Social media branded template design
 - Copywriting
 - Blog writing
 - PR
 - Marketing materials – design and production
 - Social media content creation visits
 - Printing
 - Marketing consultation
 - Marketing strategy
 - Direct marketing
 - Email marketing
 - Website audit
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Schedule 2 The Retained Services

Codebreak's retained marketing services may include (depending on the agreed proposal):

- Social media content creation (which may include video, podcasts, microcasts, and copy)
- Social media posting
- Social media branded template design
- Digital advertising (platforms offered include Facebook Ads, Google Ads, LinkedIn Ads, and TikTok Ads)
- Copywriting
- Blog writing
- PR
- Marketing materials – design and production
- Social media content creation visits
- Review sessions with a Codebreak member of staff
- Search engine optimization
- Printing
- Marketing consultation
- Marketing coaching
- Marketing strategy
- Direct marketing
- Email marketing
- Website hosting