

1. Licence terms

- 1.1 These are the terms and conditions which apply to the contract between Forfront Ltd. registered in England and Wales with company number 3643637 at Paternoster House, 65 St Paul's Churchyard, London EC4M 8AB and trading from Forfront, Renaissance House, 32 Upper High Street, Epsom, Surrey, KT17 4QJ (The Company) and The Licensee (as named in the Specification) pursuant to which the Licensee is licenced to use the Software (the Licence).

- 1.2 The following definitions apply:

Fault any deviation of the Software from the Specification or typographic mistakes. All other changes are **Enhancements** and shall require an additional Quotation.

Quotation the quote submitted by the Company to the Licensee following receipt of the Specification.

The Software means the software solution designed and configured by the Company in accordance with the Specification and which includes a set of web pages written using HTML and or ASP and or ASPX and or XML and or Java, and/or computer programs developed by The Company consisting of a library of pre-existing programs and, where requested, programs developed or modified specifically to meet the requirements of The Licensee (a **Bespoke Development**) and will include all emails generated by programs running on the Servers as well as web pages generated by the Software or uploaded as files, and all subsequent amendments and updates to, or new versions of, such Software as may be provided under these terms.

Servers means the web, database, file and/or computer servers on which the Software operates.

Specification means the written statement of requirements agreed and signed by the Licensee and approved by the Company pursuant to which the Software is configured.

2. Basis of Contract

- 2.1 The submission of a Specification by the Licensee to the Company constitutes an offer by the Licensee for a licence of the Software in accordance with these conditions. Such offer will only be deemed accepted when the Company issues the Quotation at which point a contract (the **Contract**) will come into existence (**Commencement Date**).
- 2.2 The Contract shall continue unless terminated earlier in accordance with these terms, until either Party gives to the other not less than 12 months' written notice to terminate, expiring on or after the first anniversary of the Commencement Date.
- 2.3 The Company reserves the right to renew and revise these terms and conditions from time to time without notice. If a material revision or amendment is required, prior written notice will be given to the Licensee. Continued use of the Software following any revision shall constitute acceptance of such revision.

3. The licence

- 3.1 In consideration of the licence fee, the Company grants the Licensee a non-exclusive licence to use the Software for the term of the Contract.
- 3.2 The Licence is non-transferable. The Software must not be assigned, novated, rented, sublicensed, or loaned to any other party unless otherwise specified in the Specification or agreed in writing by the Company.
- 3.3 The Licensee may not allow the Software to become the subject of any charge, lien or encumbrance, or deal in any other manner with any or all of its rights and obligations under this Licence (save as otherwise anticipated in a Specification).
- 3.4 The Licensee must not disclose the content of the Software program files (source code) to any third party except where approved by the Company (in its sole and unfettered discretion). The Licensee shall procure that any such third party enters into a non-disclosure agreement in connection with such information, and shall keep a complete and accurate record of any such disclosure of the Software and its users. For the avoidance of doubt, this includes any contractors working for the Licensee.
- 3.5 The Software must not be used other than to support the Website, Intranet, Extranet or Application for the purpose specified in The Specification, unless otherwise agreed by the Company in its sole and unfettered discretion.
- 3.6 The Software must only be run on The Servers or the Licensee's back office personal computers or servers unless otherwise specified.

4. Intellectual Property Rights

- 4.1 The Company owns all the intellectual property rights in The Software (including any updates, maintenance releases, or adaptations) and the Licensee shall have no other rights in the Software other than of use in accordance with the Licence. The Licensee shall not make any representation or do any act which may be taken to indicate that it has any right, title, or interest in or to the ownership or use of the Company's intellectual property rights.
- 4.2 The Licensee owns the intellectual property rights for the content it uploads, links to, or publishes using the Software. For the avoidance of doubt, the content includes the text, images and database contents. To the extent that any such content uses, references or links to any third party intellectual property rights, the Licensee warrants that it has obtained all necessary consents to use/reproduce or link to any content to which any third party intellectual property rights may relate. The Licensee indemnifies, and agrees to keep indemnified, the Company in connection with any loss or damages suffered or incurred by the Company in connection with any claim by a third party that the content uploaded, linked to or published by the Licensee infringes the intellectual property rights of a third party.

5. Acceptance

- 5.1 When The Software has been installed on The Servers the Licensee agrees to test the software to verify that it performs according to The Specification (**Acceptance Tests**).

- 5.2 Once handed over for Acceptance Tests, The Software is subject to change control (listed in The Software version release notes or managed on The Company's Support System <http://support.forfront.net> or any other method the Company uses for managing the version control). All changes, whether Faults or Enhancements must be specified in writing. Faults are defined as deviations of The Software from The Specification or typographic mistakes. All other changes are defined as Enhancements. Fault reports must include enough information to enable The Company to reproduce the Fault.
- 5.3 The Licensee has a period of 30 days to test the system (**Acceptance Period**). Once any Faults arising during the Acceptance Period have been fixed The Software will be deemed to have been accepted.
- 5.4 These acceptance procedures apply to the initial development and any subsequent changes to the system.
- 5.5 The Company may make revisions of The Software available on a system other than the Production Environment i.e. a Test Server in a User Acceptance Testing (**UAT**) environment in which case the Licensee may conduct tests on the Test Server prior to release onto The Production Server. Nevertheless these acceptance procedures apply only once The Software has been released to The Servers.

6. Warranty

- 6.1 The Software will conform in all material respects with the Specification for a period of 30 days following acceptance. Any Faults found in The Software (other than those caused by or arising as a result of any deliberate or negligent act or omission of the Licensee (or anyone acting under their authority) including the amendment or use of the Software outside the terms of the Licence) will be fixed free of charge during this period. After the warranty period, time spent fixing faults will be charged at The Company's then current hourly rate unless covered by a maintenance contract or other support services provided by the Company.
- 6.2 The Company does not warrant that the Software will be uninterrupted or error-free, or that the results obtained from using the Software will be accurate, complete or current. The Software will be provided on an 'as is' and 'as available' basis. All other conditions, warranties or other terms which might have effect between the Parties or be implied or incorporated into the Contract, whether by statute, common law or otherwise, are hereby excluded, including the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose or the use of reasonable skill and care.

7. Service Level Agreement (SLA), Support and Maintenance Service

- 7.1 Subject to support and maintenance fees being agreed in the Quotation, the Company will provide the following services:
 - (a) 'response ready' state, so that any enquiries, remedial work or changes can be carried out without the need to restore code from backups;
 - (b) response to Fault enquiries;
 - (c) assistance with log interpretation;
 - (d) remedial work outside warranty (only when hosted on The Servers and at the cost based on The Company's then current hourly rate unless otherwise agreed).
- 7.2 The Company makes no guarantee and does not represent that it will complete the support services within any given time period. It will make reasonable efforts to address operational emergencies and start work within the response times defined below:
 - (a) Urgent faults within 2 hours during the working day;
 - (b) Medium priority Faults within 1 month;
 - (c) No target for low priority Faults.
- 7.3 The licence terms will apply to any amendments made to The Software by The Company subsequent to delivery.
- 7.4 If The Licensee makes any changes to the Software, then The Company will invoice any additional work required to fulfil this agreement that results from those changes. Such work will be invoiced at The Company's then current hourly rate and will be payable within the payment terms indicated in the invoice.
- 7.5 All maintenance work to be requested through the Support System and should clearly state the authorising person. Emergency situations should also be followed up with a telephone call. No work will be undertaken unless a request is received in writing.
- 7.6 If there is a period of time without a support and maintenance contract, but a patch is required, Forfront will undertake the changes on the condition that the support and maintenance schedule is brought up to date, and all historical costs incurred are covered.

8. Licensee Obligations

- 8.1 The Licensee shall:
 - (a) immediately notify the Company if it becomes aware of any unauthorised use of the Software;
 - (b) not use the Software for any unlawful purpose and only in accordance with the Acceptable Use Policy contained herein;
 - (c) keep all passcodes and other access details for use with the Software confidential and restricted to those members of staff who need to know such details and ensure all such staff are aware of the confidential nature of such information and treat it accordingly;
 - (d) not (and not permit any third party to) copy, adapt, reverse engineer, decompile, de-code or in any way disassemble any Software (in whole or in part) provided by the Company.
- 8.2 The Licensee may not use any information provided by the Company or obtained by the Licensee during the term of this Contract to create any software whose expression is substantially similar to that of the Software nor use any such information in any manner which would be restricted by any copyright subsisting in it.

9. Acceptable Use Policy

9.1 Illegal use

The Software and The Servers can be used only for lawful purposes. Transmission, distribution or storage of any material in violation of any applicable law or regulation is prohibited. This includes, without limitation, material protected by copyright, trademark, trade secret or intellectual property right used without proper authorisation, and material that is obscene, defamatory, constitutes an illegal threat, or violates export control laws.

9.2 E-mail

Direct marketing (the communication by whatever means of any advertising or marketing material which is directed to particular individuals) is permitted only in full compliance with The Privacy and Electronic Communications (EC Directive) Regulations 2003 and The Unsolicited Communications Regulations 2005.

9.3 Any photos, pictures, images or videos uploaded, used, or linked to must be proprietary to the Licensee or used under a valid licence, and must comply with these terms and conditions.

9.4 The Software must not be used for the publication, linking to, issue or display of any material which, in the Company's absolute discretion may harm the Company or any of the Company's clients, or which may bring the Company into disrepute or may call into question any action taken by the Company on the Licensee's behalf.

10. Charges and Payment

10.1 The Licensee shall pay to the Company an annual fee for the Licence as more particularly set out in the Quotation. The fee shall be payable annually advance (commencing the Commencement Date) and all payments shall be made in full and in cleared funds on the due date for payment in GBP, without any abatement, set-off or deduction. Time of payment is of the essence. All sums quoted are exclusive of VAT for which the Licensee shall be responsible.

10.2 If the Licensee fails to make any payment due to the Company under the Contract by the due date for payment, then, without limiting the Company's rights and remedies under the Contract, the Licensee shall pay interest on the overdue amount at the rate of 4% per annum above HSBC PLC bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Licensee shall pay the interest together with the overdue amount.

11. Data Protection

11.1 The following definitions apply: the terms "data controller", "data subject" and "process" bear the respective meanings given them in the Data Protection Act 1998; "personal data" means any data subject to protection under applicable data protection laws, and "data" includes personal data.

11.2 The Licensee is the data controller in respect of any personal data that the Company processes in the course of providing the Software. The personal data is derived from data provided by the Licensee and is not checked or monitored by the Company and the Company has no liability or responsibility whatsoever howsoever arising directly or indirectly for the accuracy, contents or use of such personal data.

11.3 The Licensee shall at all times comply with its obligations under all applicable data protection laws and shall indemnify, and keep indemnified, the Company in connection with any loss or damages suffered or incurred by the Company in connection with any failure to comply, or breach by the Licensee of the data protection laws.

12. Limitation of Liability

12.1 Except as expressly stated in clause 2:

- (a) the Company shall not in any circumstances have any liability for any losses or damages which may be suffered by the Licensee (or any person claiming under or through the Licensee), whether the same are suffered directly or indirectly or are immediate or consequential, and whether the same arise in contract, tort (including negligence) or otherwise howsoever, including: special damages; loss of profits; loss of anticipated savings; loss of business opportunity; loss of goodwill; or loss or corruption of data;
- (b) the total liability of the Company, whether in contract, tort (including negligence) or otherwise and whether in connection with the Contract, shall in no circumstances exceed a sum equal to Fees payable in the 12 month period preceding the date of the claim; and
- (c) the Licensee agrees that, in entering into the Licence, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out herein or (if it did rely on any representations, whether written or oral, not expressly set out herein) that it shall have no remedy in respect of such representations and (in either case) the Company shall have no liability in any circumstances otherwise than in accordance with the express terms of the Contract.

12.2 The Company does not exclude liability for: death or personal injury caused by the negligence; fraud or fraudulent misrepresentation; breach of the obligations implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or any other liability which may not be excluded by law.

13. Termination

13.1 In the event that The Company goes into Liquidation, The Licence to use the software will continue in perpetuity but the Licensee acknowledges that the Software shall no longer be supported, maintained or improved.

13.2 In the event that The Licensee goes into liquidation, insolvency, administration, or any event occurs, or proceeding is taken, in any jurisdiction to which it is subject, that has an effect equivalent or similar to liquidation, insolvency or administration, the

contract will terminate. For the avoidance of doubt, the Licence will automatically terminate and may not be transferred to creditors of the Company.

- 13.3 Without affecting any other rights or remedy available to it, either Party may terminate the Contract with immediate effect by giving written notice if the other Party commits a material breach of its term which breach is irremediable or (if such breach is remediable) fails to remedy that breach within 14 days of being notified to do so.

14. Other

- 14.1 These conditions and the Contract shall be governed by the Laws of England and Wales, and the Company and the Licensee irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 14.2 The Quotation and these Conditions constitute the entire agreement between The Company and The Licensee and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them. All other terms and conditions are expressly excluded to the extent permitted by law.
- 14.3 If any part of these conditions shall be found to be un-enforceable, it will not affect the balance of the agreement, which shall remain valid and enforceable to the fullest extent permitted by law.
- 14.4 No one other than a party to the Contract shall have any right to enforce any of its terms.
- 14.5 Neither the Company nor the Licensee shall be in breach of these conditions or the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure results from events, circumstances or causes beyond its reasonable control.
- 14.6 The Company and the Licensee undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs of the other party except to its employees, officers or advisers who need such information for the purposes of performing the Contract, or as may be required by law or a court of competent jurisdiction.
- 14.7 The headings (in bold) of this agreement are for clarity only and do not form part of the agreement.
- 14.8 The Company may at any time assign, transfer, mortgage, charge, subcontract or deal in any manner with any of its rights under the Contract.