

## 1. THE CONTRACT

- 1.1 Our agreement (the “**Contract**”) is made up of the following documents (which shall apply in the following order of priority in the event of any conflict between them):
  - 1.1.1 Your Order
  - 1.1.2 These Terms
  - 1.1.3 The Service Level Agreement
- 1.2 This Contract is the entire agreement between us. No other terms, conditions or warranties are included in the Contract. This Contract supersedes any prior agreements, arrangements, understandings and representations (whether oral, written or otherwise) made by or between us.
- 1.3 The Customer has not relied on any representation made by iPages unless that representation is expressly included in this Contract.

## 2. DEFINITIONS

- 2.1 In this Contract, the following expressions shall have the following meanings:
  - 2.1.1 **Additional Services** has the meaning set out in clause 5.1.
  - 2.1.2 **Business Hours** means the hours between 9:00 and 17:00 between Monday and Friday, excluding public holidays in the United Kingdom.
  - 2.1.3 **Contract** has the meaning set out in clause 1.1.
  - 2.1.4 **Customer** means the customer identified in the Order.
  - 2.1.5 **Fees** means the Setup Fee and the Monthly Fee identified in the Order.
  - 2.1.6 **Insolvent** has the meaning set out in clause 7.6.
  - 2.1.7 **iPages** means iPages Limited (company number 06357757).
  - 2.1.8 **Minimum Term** means the duration of the minimum term as identified in the Order, beginning on the date that the first Monthly Fee becomes due.
  - 2.1.9 **Monthly Fee** means the monthly fee from time to time as identified in the Order.
  - 2.1.10 **Order** means the iPages Order Form signed by the Customer.
  - 2.1.11 **Services** means the services identified as being included in the Order.
  - 2.1.12 **Setup Fee** means the setup fee identified in the Order.

## 3. OUR OBLIGATIONS

- 3.1 iPages will use reasonable care and skill in providing the Services to the Customer.
- 3.2 iPages gives the warranties set out in the Service Level Agreement. Save as provided for the Service Level Agreement the Customer shall have no other rights or entitlements in respect of any breach of the Service Level Agreement or this clause 3.2.

## 4. YOUR OBLIGATIONS

- 4.1 The Customer will provide iPages any information and co-operation reasonably required by iPages for the provision of the Services.
- 4.2 The Customer will take reasonable security precautions in connection with its use of the Services.
- 4.3 The Customer will not use the Services for any illegal or improper uses or in a way which breaches another person’s rights, including copyright or other intellectual property rights.
- 4.4 The Customer will be liable for and will pay the Fees as follows:
  - 4.4.1 Twenty per cent (20%) of the Setup Fee is due and payable on the date that this Contract is agreed.
  - 4.4.2 The balance of the Setup Fee is due from the date that the Customer begins to use the Services (or such other date as agreed by the parties).
  - 4.4.3 The Monthly Fee is due from the date that the Customer begins to use the Services (or such other date as agreed by the parties) and every calendar month thereafter. iPages has the right to increase the Monthly Fee on an annual basis in line with CPI.
  - 4.4.4 The Monthly Fee will be invoiced monthly and is payable within 30 days of the date that it is invoiced.

- 4.5 In the event that the Customer fails to make any payment that is due iPages will charge interest on the outstanding sum at the rate of four per cent (4%) above the prevailing Bank of England Base Rate.

## 5. ADDITIONAL SERVICES

- 5.1 The Customer may request a change to the scope of the Service or request additional services from iPages (in either case, the “**Additional Services**”). In the event of such a request:
  - 5.1.1 iPages will agree the scope of the Additional Services with the Customer in writing.
  - 5.1.2 iPages will agree a fee in writing for the Additional Services. That fee may be a one-off fee, an additional monthly fee, or both.
- 5.2 Unless and until iPages receives the Customer’s written agreement to the Additional Services, iPages shall have no obligation to carry out the Additional Services.
- 5.3 Any Additional Services shall be subject to these Terms and the Service Level Agreement.

## 6. SUSPENSION

- 6.1 iPages has the right to suspend its provision of the Services in the event that the Customer is in breach of this Contract (including through the non-payment of any Fees or interest due)
- 6.2 Where the Customer’s breach is capable of remedy, before iPages is entitled to suspend in accordance with clause 6.1, iPages must give the Customer a written notice specifying the Customer’s breach and providing the Customer an opportunity to remedy the breach. In the event that the breach is not remedied within seven (7) days of the notice, iPages is entitled to suspend the Services.
- 6.3 Where iPages suspends the Services in accordance with this clause 6, iPages shall have no liability to the Customer in respect of any suspension of the Services.

## 7. TERMINATION

- 7.1 The Contract commences on the date that the Order is signed and will continue until it is terminated.
- 7.2 The Customer may terminate this Contract by giving 90 days’ notice of termination to iPages (provided that no such notice is to be given for the duration of the Minimum Term).
- 7.3 The Customer also has the specific rights of termination that are set out in the Service Level Agreement.
- 7.4 iPages may terminate the Contract as follows:
  - 7.4.1 immediately if the Customer is Insolvent.
  - 7.4.2 by giving 30 days’ notice of termination to the Customer (provided that no such notice is to be given for the duration of the Minimum Term).
- 7.5 In the event that the Contract is terminated the Customer will remain liable for any Fees that are due.
- 7.6 For the purposes of these Terms:
  - 7.6.1 a company becomes Insolvent:
    - 7.6.1.1 when it enters administration within the meaning of Schedule B1 to the Insolvency Act 1986;
    - 7.6.1.2 on the appointment of an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part; or
    - 7.6.1.3 on the passing of a resolution for voluntary winding-up without a solvency under section 89 of that Act; or
    - 7.6.1.4 on the making of a winding-up order under Part IV or V of that Act.
  - 7.6.2 a partnership becomes Insolvent:
    - 7.6.2.1 on the making of a winding-up order against It under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or

- 7.6.2.2 when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors
- 7.6.3 an individual becomes Insolvent:
  - 7.6.3.1 on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
  - 7.6.3.2 on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
- 7.6.4 a person also becomes Insolvent if:
  - 7.6.4.1 he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
  - 7.6.4.2 (in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause.
- 7.6.5 Each of sub clauses 7.6.1 to 7.6.4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.

## 8. LIMITATION OF LIABILITY

- 8.1 Except for liability on the part of iPages which is expressly provided for in the Contract:
  - 8.1.1 iPages shall have no liability or responsibility for any loss, or damage of whatever nature due to or arising through any cause beyond its reasonable control;
  - 8.1.2 iPages shall have no liability or responsibility, whether by way of indemnity or by reason of any breach of the Contract, misrepresentation, or by the commission of any tort (including but not limited to negligence) in connection with the Services, for any of the Customer's loss of profit, loss of use of any asset or facility, loss of production or productivity, loss of contracts with any third party, liabilities of whatever nature to any third party, and/or any other financial or economic loss or indirect or consequential loss or damage of whatever nature; and
  - 8.1.3 whenever the Contract provides that the Customer is entitled to a refund or partial refund of Fees, that refund shall be the Customer's sole and exclusive remedy in respect of the circumstances giving rise to the refund.
- 8.2 In all cases iPages' liability is limited and will not exceed the multiple of twelve (12) times the average Monthly Fee in the twelve (12) months prior to the date on which the Customer notifies iPages of any claim.
- 8.3 For the avoidance of doubt nothing in this Contract limits or seeks to exclude either iPages' liability for claims for death or personal injury, for fraud or for any other liability for which it is not permitted to seek to limit or exclude by operation of law.
- 8.4 The parties agree that the Fees for the Services properly reflect the delineation of risk between the parties and that each party is responsible for making its own arrangements for the insurance of any loss in excess of the accepted legal liability as necessary.

## 9. USE OF SERVICES

- 9.1 The Services provided to the Customer will be delivered through the use of software and intellectual property developed for iPages. The Customer acknowledges and agrees that:
  - 9.1.1 its use of the Services shall confer no rights in any software or intellectual property used by iPages or any exclusivity in the same; and
  - 9.1.2 iPages retains all rights, title and interest in its trade secrets, inventions, copyrights and other intellectual property; and
  - 9.1.3 any intellectual property developed by iPages during the performance of the Services shall belong to iPages unless otherwise agreed in writing.
- 9.2 The parties do not intend that any of the terms of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to the Contract.
- 9.3 The rights and obligations of the Customer under this Contract are personal to the Customer and the Customer undertakes that it shall not nor purport to assign, lease, charge, sub-license, or otherwise transfer such rights and obligations in whole or in part.

- 9.4 iPages may revise these Terms from time to time. Any changes will not be retroactive. iPages will notify the Customer of any change to these Terms. By continuing to use or access the Services after those revisions become effective, the Customer agrees to be bound by the revised terms.

## 10. NOTICES

- 10.1 All notices given under this Contract shall be in writing.
- 10.2 iPages may give notice to the Customer as follows:
  - 10.2.1 By email to the email address of the Customer; or
  - 10.2.2 By first class address to the address of the Customer.
- 10.3 Notices sent by iPages shall be deemed to have been delivered at the time that they are sent.
- 10.4 The Customer shall give notice to iPages as follows:
  - 10.4.1 By email to "info@ipages.biz". Any notice shall be deemed to have been received at the time that it is acknowledged by iPages; or
  - 10.4.2 By recorded delivery to iPages' current address at the date of giving the notice.

## 11. FORCE MAJEURE

- 11.1 "Force Majeure" means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that that party proves:
  - 11.1.1 that such impediment is beyond its reasonable control; and
  - 11.1.2 that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
  - 11.1.3 that the effects of the impediment could not reasonably have been avoided or overcome by the affected party.
- 11.2 In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions 11.1.1 and 11.1.2: (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy; (iii) currency and trade restriction, embargo, sanction; (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation; (v) plague, epidemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged breakdown of transport, telecommunication, information system or energy; (vii) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.
- 11.3 A party successfully invoking this clause is relieved from its duty to perform its obligations under the contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes performance by the affected party. Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days.

## 12. GOVERNING LAW AND SEVERABILITY

- 12.1 This Contract is governed by English law.
- 12.2 Both parties expressly and irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.
- 12.3 If any of these clauses are held to be unlawful, void or unenforceable, then that clause will be deemed severable and will not affect the validity and enforceability of the remaining clauses, to the extent permitted by law.