



# Conditions.

## Agreed terms

### 1. Definitions & Interpretation.

#### 1.1 Definitions:

**Acceptance Period:** has the meaning given to it in clause 4.4

**Authorised Disclosees:** has the meaning given to it in clause 12.4(b)(i).

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Bolt On Document:** our document entitled 'Bolt Ons' supplied to you with the Contract Details and/or the Marketing Retainer Document.

**Conditions:** these terms and conditions.

**Contract:** the contract between Estrella Ventures and you for the supply of the Services in accordance with the Contract Details and these Conditions.

**Contract Date:** has the meaning given to it in clause 3.1.

**Contract Details:** the document entitled 'Contract Details' setting out certain details in relation to the Contract and containing a link to these Conditions

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** will be interpreted accordingly.

**Customer Materials:** any and all materials, information, drawings, specifications and data supplied by you to us.

**Deliverables; Fees; Services; Services Start Date; Special Conditions:** each as set out in the Contract Details (if included in the case of Special Conditions).

**Deliverables Schedule:** the schedule appended to the Contract Details appended to the Contract Details Conditions (if we're supplying the Services pursuant to a Project).

**Estrella IPRs:** all Intellectual Property Rights used by us to supply the Services in accordance with the Contract.



**Group:** in relation to you or us, any subsidiary or holding company from time to time of you or us, and any subsidiary from time to time of a holding company of you or us.

**Initial Period:** has the meaning given to it in clause 3.1(a).

**Intellectual Property Rights:** patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights which subsist or will subsist now or in the future in any part of the world.

**Losses:** the following types of loss or damage in each case whether direct or indirect, being loss of: profits; sales or business; opportunity; agreements or contracts; anticipated savings; use or corruption of software, data or information; goodwill or damage to it; expenditure (including wasted expenditure) or management time; and any other indirect loss or damage.

**Marketing Retainer:** our retainer as described in the Marketing Retainer Document supplied to you with the Contract Details, Bolt-on Document and/or Deliverables Schedule (if we're supplying the Services pursuant to a Marketing Retainer).

**Marketing Retainer Document:** the document entitled 'Marketing Retainer' supplied to you with the Contract Details (if we're supplying the Services pursuant to a Marketing Retainer).

**Project; Project Intervals:** each as set out in the Contract Details (if we're supplying the Services pursuant to a Project).

**Quarter:** each period of 3 months during the Contract term commencing from the Contract Date.

**Renewal Period:** has the meaning given to it in clause 3.1(a).

**Severance Event:** has the meaning given to it in clause 12.8.

**Site:** [www.estrellaventures.com](http://www.estrellaventures.com) or any other website we use to promote our business at any time.

## 1.2 Interpretation.



- (a) References to laws are references to laws as they're amended, extended or re-enacted at any time and include all subordinate legislation made at any time under the same.
- (b) Any words following the term **including** or any similar expression are illustrative only and don't limit the sense of the words, description, definition, phrase or term preceding that term or similar expression.
- (c) **Writing** or **written** includes e-mail but not fax unless the context indicates otherwise.
- (d) References to **liability** include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise and references to **liable** will be interpreted accordingly.
- (e) The rules on remoteness don't apply to any indemnity given by you to us under the Contract and we're under no obligation to mitigate any losses we claim under any such indemnity.
- (f) References to the Contract, the Contract Details, the Marketing Retainer, the Deliverables Schedule or the Conditions includes each of those documents as it may be varied at any time in accordance with clause 12.6.
- (g) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (h) A reference to the Contract includes the Deliverables Schedule (if any).

## **2. Basis of Contract.**

- 2.1 Only these Conditions apply to the Contract. Any terms you seek to impose or incorporate and any terms implied by law, trade custom, practice or course of dealing are excluded from the Contract.
- 2.2 Any Special Conditions set out in the Contract Details shall form part of the Contract. In the event of any conflict, ambiguity or inconsistency between the Special Conditions and the other terms of the Contract, the Special Conditions will prevail.



2.3 Any descriptive matter or advertising issued by us (including content on our Site and in the Bolt On Document) only gives an approximate idea of the services and fees described in them. They don't form part of the Contract or have any contractual force.

### **3. Commencement and term.**

3.1 The Contract starts on the date it is signed by both of us (**Contract Date**) and continues, if we're supplying the Services pursuant to:

(a) a Marketing Retainer: for 12 months from and including the Contract Date (**Initial Period**). Without affecting your other rights and remedies, you can terminate the Contract with effect from the last day of the Initial Period by giving us at least 30 days' notice to expire on that last day. If you don't give us that notice then the Contract will, unless you and we enter into a separate written agreement which supersedes the Contract, automatically renew from the day immediately after the last day of the Initial Period for successive periods of 12 months (each a **Renewal Period**) until you terminate the Contract with effect from the last day of a Quarter during the applicable Renewal Period by giving us at least 30 days' notice to expire on the last day of that Quarter; or

(b) a Project: for the period specified in the Deliverables Schedule or such other period agreed between us in writing and will automatically terminate on the last day of that period,

unless in each case the Contract is otherwise terminated earlier in accordance with its terms.

### **4. Services and Deliverables.**

4.1 We'll start supplying the Services on the Services Start Date, supply the Services using reasonable care and skill and otherwise supply them and deliver the Deliverables to you in accordance with the Contract in all material respects.

4.2 We'll use reasonable endeavours to meet any dates or timescales set for supplying the Services and delivering the Deliverables (including months indicated in the Marketing Retainer and any dates in the Deliverables Schedule), but those dates are estimates only and time won't be of the essence for supply of the Services or delivery of the Deliverables.



- 4.3 We may amend the Services and/or the Deliverables to comply with any applicable law(s) or regulatory requirement(s) and if we do, we'll let you know.
- 4.4 If we're supplying the Services pursuant to a Marketing Retainer, you can buy one or more of the services set out in the Bolt On Document (**Additional Services**) to amend the scope of the Services by sending us an e-mail request. In response to that request we may send you a quote setting out our fees for the Additional Services. Each and any quote is valid for 7 days or 30 days (as we specify) from its date of issue. If you accept that quote within the relevant period then references to the Services, the Fees and the Deliverables will be deemed amended accordingly from the date we receive your acceptance. If we don't receive a response from you to that quote or you reject it in each case within the relevant period, it will be deemed rejected and we'll be under no obligation to provide any Additional Services.

## **5. Your obligations.**

- 5.1 You will:
- (a) co-operate with us, our officers and employees in all matters relating to the Services.
  - (b) promptly provide us, our officers and employees:
    - (i) with any information we need to supply the Services (including answers to any questions asked or information requested from you) and ensure that information is accurate and complete;
    - (ii) at no charge with access to your data and other information as reasonably required to provide the Services and deliver the Deliverables.
  - (c) promptly approve or disapprove in writing any publications, strategies, messages, advertisements, press releases, creative treatments (including scripts, statements, storyboards, copy, layouts, design, artwork) or other marketing items received from us, our officers or employees. You agree that if you fail to so promptly approve or disapprove, delivery of the Deliverables and supply of the Services by us may be prevented or delayed; and
  - (d) obtain and maintain any and all necessary licences, permissions and consents which may be required for the Services before the Services Start Date.



- 5.2 If you give us written approval to take any step or make any publication in accordance with clause 5.1(c), you'll indemnify us on demand against all liabilities, costs, expenses, damages and losses suffered or incurred by us, our officers or employees arising out of or in connection with any claim made against us in relation to us taking that step or making that publication.
- 5.3 If performance of our obligations under the Contract is prevented or delayed by any act or omission of you (including your breach of the Contract), your agents, subcontractors, consultants, officers and/or employees, we:
- (a) subject to clause 9.2, won't be liable for any costs, charges, expenses or losses sustained or incurred by you that arise directly or indirectly from that prevention or delay;
  - (b) are entitled to receive payment of the Fees despite that prevention or delay; and
  - (c) may recover any additional costs, charges, expenses or losses we sustain or incur that arise directly or indirectly from that prevention or delay.

## **6. Data protection.**

You and we don't envisage processing any personal data as part of supply of the Services during the term of the Contract. However, if required by applicable law you and we will enter into a suitable separate written agreement (where writing excludes e-mail).

## **7. Intellectual Property Rights.**

- 7.1 We and our licensors own the Estrella IPRs. You and your licensors (as the case may be) own all Intellectual Property Rights in the Customer Materials.
- 7.2 We own all Intellectual Property Rights subsisting in any techniques, methods, approaches, or concepts arising out of or in connection with supply of the Services with effect from their date of creation. Subject to the preceding part of this this clause and to us receiving payment of the Fees in accordance with the Contract, we assign to you absolutely all Intellectual Property Rights in and to the Deliverables with effect from the date by which we've received that payment.
- 7.3 With effect from the Services Start Date you grant us a worldwide, non-exclusive, royalty-free, transferable licence to copy and modify Customer Materials for the term



of the Contract for the purpose of providing the Services and delivering the Deliverables to you.

- 7.4 You'll indemnify us on demand against any sums awarded by a court against you arising out of or in connection with any claim brought against the you for infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, your receipt or use of Customer Materials.

## **8. Fees, expenses and payment.**

8.1 In return for supplying the Services, you'll pay us the Fees in accordance with this clause.

8.2 We'll inform you of any expenses we reasonably believe we need to incur to supply the Services (including expenses in relation to website domains, videos and printing) and you'll approve those expenses in writing promptly. Expenses will be invoiced to you in accordance with clause 8.4 and will be payable in accordance with clause 8.5.

8.3 All amounts due and payable by you under the Contract:

- (a) exclude VAT, which will be added to our invoices at the then prevailing rate and which you'll be additionally liable to pay;
- (b) are non-refundable; and
- (c) will be paid by you in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8.4 Where we're supplying the Services pursuant to a:

- (a) Marketing Retainer: we'll issue invoices to you:
  - (i) in advance on the first Business Day of each month during the Contract term; or
  - (ii) where the Services Start Date does not fall on the first Business Day of a month, on or around the Services Start Date for an amount pro-rated to cover the period between that date and the day before the first Business Day of the immediately following month, then in advance on the first Business Day of that month and after that in accordance with clause 8.4 (a) (i).



- (iii) Project: we'll issue invoices to you on the dates and for the Fee percentages set out in the Project Intervals.

8.5 You will:

- (a) follow and complete any and all instructions or directions received from us or any third party:
  - (i) to receive or pay our invoices whether or not through GoCardless; and/or
  - (ii) to set up a direct debit mandate to pay our invoices.
- (b) pay each invoice issued by us in accordance with the Payment Terms to the bank account specified on that invoice.

8.6 If you don't make any payment due under the Contract by the due date for it, then, without affecting our other rights and remedies, we may suspend supplying all or part of the Services without liability to you (subject to clause 9.2) until payment has been made in full.

8.7 If we're supplying the Services pursuant to a Marketing Retainer, we can increase the Fees with effect from the day after the last day of the Initial Period or applicable Renewal Period (as the case may be) by giving you at least 30 days' notice to expire on the last day of the Initial Period or applicable Renewal Period (as the case may be). If you don't agree to the Fee increase, then without affecting your other rights and remedies you can terminate the Contract in accordance with clause 3.1(a), unless at the date you serve notice to terminate we have already entered into a new contract on our standard terms in accordance with that clause.

## **9. Limitation and exclusion of liability – please read this clause carefully.**

9.1 Nothing in the Contract limits or excludes your:

- (a) payment obligations under the Contract.
- (b) liability under clauses 5.2 or 7.4.

9.2 Nothing in the Contract limits or excludes any liability which cannot legally be limited or excluded, including liability for:

- (a) death or personal injury caused by negligence; and
- (b) fraud or fraudulent misrepresentation.





9.3 Subject to clause 9.1 and 9.2:

- (a) our total aggregate liability to you under or in connection with the Contract will not exceed:
  - (i) the Fees, if we're supplying the Services pursuant to a Project; or
  - (ii) the Fees paid and payable during the Initial Period or Renewal Period in which the relevant breaches occurred, if we're supplying the Services pursuant to a Marketing Retainer; and
- (b) we won't be liable for any Losses.

9.4 We've given certain commitments in respect of the Services in clause 4. Given this, you and we agree that the terms implied by sections 13 to 15 (inclusive) of the Supply of Goods and Services Act 1982 are, to the extent permitted by law, excluded from the Contract.

9.5 Unless you notify us that you intend to make a claim in respect of an event within the notice period, we'll have no liability for that event. The notice period for an event will start on the date on which the you became, or ought reasonably to have become, aware of you having grounds to make a claim in respect of the event and will expire 12 months from that date. The notice must identify the event and grounds for the claim in reasonable detail.

## **10. Termination.**

10.1 Without affecting our other rights or remedies, we may terminate the Contract with immediate effect by giving you notice if:

- (a) you don't pay the Fees or any other amount due to us under the Contract on the date its due;
- (b) you undergo a change of control;
- (c) you commit a material breach of the Contract which is irremediable or (if it is remediable) you fail to remedy that breach within a period of 7 days after being told to do so;
- (d) you take any step or action in connection with entering administration, provisional liquidation or any composition or arrangement with your 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 your assets or ceasing to carry on your business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

- (e) you suspend, or threaten to suspend, or cease or threat to cease to carry on all or a substantial part of your business; or
- (f) your financial position deteriorates to such an extent that in our opinion your capability to adequately fulfil your obligations under the Contract has been placed in jeopardy.

10.2 Without affecting our other rights and remedies, we can suspend supplying all or part of the Services if:

- (a) you become subject to any of the events given in clause 10.1(e) and/or 10.1(f) or we believe you're about to become subject to any of them; or
- (b) we believe you're about to become subject to the events given in clause 10.1(d)

10.3 **Termination option 1. This clause is only a term of the Contract if indicated as such in the Contract Details.** If we're supplying the Services pursuant to a Marketing Retainer, then without affecting your rights and remedies, you can terminate the Contract with effect on the last day of the third month of the Contract term by giving us at least 30 days' notice.

10.4 **Termination option 2. This clause is only a term of the Contract if indicated as such in the Contract Details.** If we're supplying the Services pursuant to a Marketing Retainer, then without affecting your rights and remedies, you can terminate the Contract with effect from the last day of a Quarter by giving us at least 30 days' notice to expire on the last day of that Quarter and on expiry of that notice period the Contract will terminate.

10.5 On the date the Contract terminates:

- (a) howsoever arising:
  - (i) the licence you grant us under clause 7.3 will revoke once we've received payment of our invoices and any interest (if applicable);



- (ii) any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract will remain in full force and effect; and
  - (iii) termination won't affect any of the rights, remedies, obligations or liabilities of you or us that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at Dior before the date of termination.
- (b) pursuant to clause 10.1:
  - (i) you'll immediately pay to us all our outstanding unpaid invoices and any interest and otherwise in accordance with clause 8 and, in respect of Services supplied but for which no invoice has been submitted, we may issue you an invoice in accordance with that clause but which will be payable immediately on receipt;
  - (ii) we'll deliver any Deliverables then due not then already delivered to you, and on completion of that delivery we'll immediately stop supplying the Services. Your ownership of any Intellectual Property Rights in and to those Deliverables will be subject to clause 7.2.
- (c) pursuant to clauses 3.1(a), 3.1(b), 8.7, 10.3, 10.4 or 12.8:
  - (i) you'll pay all our outstanding invoices in accordance with clause 8, we may issue you an invoice for Services supplied for which no invoice has been issued, and you'll pay that invoice in accordance with clause 8; and
  - (ii) we'll deliver any Deliverables then due not then already delivered to you, and on completion of that delivery we'll immediately stop supplying the Services. Your ownership of any Intellectual Property Rights in and to those Deliverables will be subject to clause 7.2.

## **11. Non-solicitation.**

- 11.1 To protect our respective legitimate business interests, each of you and us covenants to the other, for itself and as agent for any and all companies in its Group (if it is part of one), that it will not (and shall procure that no member of its Group will (if it is part of one)) employ or engage or otherwise facilitate the employment or engagement of any person employed or engaged by the other during the term of the Contract, other than



by means of a national advertising campaign open to all-comers and not specifically targeted at such persons of the other.

11.2 Each of you and us will be bound by the covenant set out in clause 11.1 during the term of the Contract, and for a period of 6 months after termination of the Contract.

## 12. **General.**

12.1 **Force majeure.** Neither of you and us will be in breach of the Contract nor (subject to clause 9.2) liable for any delay in performing, or failure to perform, any of our respective obligations under it if such delay or failure result from events, circumstances or causes beyond our reasonable control.

12.2 **No partnership or agency.** Nothing in the Contract is intended to, or will be deemed to, establish any partnership or joint venture between you and us, constitute either of us the agent of the other, or authorise of us to make or enter into any commitments for or on behalf of the other.

### 12.3 **Assignment and other dealings.**

(a) You must not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of your rights and obligations under the Contract without our prior written permission.

(b) We may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

### 12.4 **Confidentiality.**

(a) Each of you and us undertakes that it won't at any time during the Contract, and for a period of two years after termination (howsoever arising), disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other or any member of the Group to which it belongs except as permitted by clause 12.4 (b).

(b) Each of us may disclose the other's confidential information:

(i) to its employees, consultants, officers, representatives, contractors, subcontractors or advisers (**Authorised Disclosees**) who need to know that information for the purposes of carrying out its obligations under the



Contract. Each of us will ensure that its Authorised Disclosees to whom it discloses the other's confidential information comply with this clause 12.4; and

- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither of us will use the other's confidential information for any purpose other than to perform its obligations under the Contract.

12.5 **Entire agreement and conflicts.**

- (a) If we're supplying the Services to you pursuant to a:
  - (i) Marketing Retainer: the Contract is made up of the: Contract Details, Conditions and the Marketing Retainer Document; or
  - (ii) Project: the Contract is made up of the: Contract Details, Conditions, and Deliverables Schedule.
- (b) If there's any ambiguity or inconsistency between the terms of the Contract, a term in a document earlier in the list in clause 12.5 (a)(i) or 12.5 (a)(ii) (as the case may be) will have priority over a term in a document later in it.
- (c) The Contract is the entire agreement between you and us and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between you and us, whether written or oral, relating to its subject matter.
- (d) Each of us agrees that in entering into the Contract it does not rely on and has 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 of us agrees that it will have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12.6 **Variation.** We may vary the Contract at any time. We'll send any proposed variation to you. If you don't reject that proposed variation within 5 Business Days of the date we send it to you, you'll be deemed to have accepted it at midnight on the last Business Day of that period and the Contract will be varied from that point accordingly.

12.7 **Waiver.**



- (a) A waiver of any right or remedy under the Contract or by law is only effective if given in writing and won't be deemed a waiver of any subsequent right or remedy.
- (b) A failure or delay by either of us to exercise any right or remedy provided under the Contract or by law won't constitute a waiver of that or any other right or remedy, nor 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 will prevent or restrict the further exercise of that or any other right or remedy.

12.8 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable it will be deemed deleted (**Severance Event**), but that won't affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause then you and we will negotiate to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision. If that replacement provision is not agreed within 2 weeks of the Severance Event, then either of us can terminate the Contract with immediate effect by giving notice to the other.

12.9 **Notices.**

- (a) Any notice given by either of us to the other under the Contract must be in writing and must be:
  - (i) sent by email to the following e-mail addresses:
    - (A) accounts@estrellaventures.com (where you send a notice to us); or
    - (B) your e-mail address given in the Contract Details (where we send a notice to you); or
  - (ii) delivered 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).
- (b) Any notice will be deemed to have been received and will take effect, if sent by:
  - (i) 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, **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.



- (ii) pre-paid paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.

12.10 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.11 **Third party rights.**

(a) Except for the rights of our officers and employees to enforce clauses 5.1(a) and 5.1(b) 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 you and us to rescind or vary the Contract are not subject to the consent of any other person (including our officers and employees).

12.12 **Governing law.** The Contract and any dispute or claim arising out of or in connection with it will be governed by and interpreted in accordance with English and Welsh law.

12.13 **Jurisdiction.** You and we irreversibly agree that the English and Welsh courts will have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract.