

**RETURN ON INCENTIVES
AGREEMENT FOR THE PROVISION OF SERVICES**

1. DEFINITIONS

The following definitions apply in this agreement:

Charges:	the charges payable by the Customer to the Supplier in consideration of the Services as set out in the Statement of Work
Commencement Date:	the date upon which this agreement is signed on behalf of the Customer and the Supplier;
Conditions:	the terms and conditions attached to this agreement, including any Statement of Work;
Customer:	CUSTOMER NAME (company number: 00000000) and whose registered office is at ADDRESS;
Deliverables:	the deliverables set out in the Statement of Work produced by the Supplier for the Customer.
Payment Terms:	as set out in the Statement of Work.
Services:	the services, including the Deliverables, to be supplied by the Supplier to the Customer as set out in the Statement of Work issued by the Supplier from time to time;
Supplier:	Return on Incentives Ltd (company number: 09807219) and whose registered office is at 74 Old Gorse Way, Mawsley, Kettering, Northamptonshire, United Kingdom, NN14 1GJ;
Statement of Work	the Supplier's statement of work for the performance of Services from time to time in the template format set out in Schedule 1 and signed by or on behalf of the Customer and the Supplier (Statement of Work).

2. AGREEMENT

- 2.1 In consideration of the Charges and with effect from the Commencement Date, the Supplier shall supply the Services to the Customer on the terms and subject to the conditions set out in the Conditions.
- 2.2 The Conditions and any Statement of Work are incorporated into this agreement as if reproduced in full in this agreement.
- 2.3 The Customer acknowledges receipt and acceptance of the Conditions, including any Statement of Work.

Signed for and on behalf of the Supplier:

Date:

Signed for and on behalf of the Customer:

Date:

CONDITIONS

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CONDITION 8.

1. INTERPRETATION

1.1 In these Conditions, the following definitions apply:

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

Contract: the contract between the Supplier and the Customer for the supply of the Services attached to and subject to the Conditions.

Controller, processor, data subject, personal data, personal data breach, processing and appropriate technical measures: as defined in the Data Protection Legislation.

Customer Intellectual Property Rights: any and all Intellectual Property Rights owned by or licenced to the Customer.

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).

Developed Intellectual Property Rights: any and all Intellectual Property Rights which exists or may exist in the Services and/or the Deliverables and which is developed by the Supplier but excluding any Licenced Intellectual Property Rights or Customer Intellectual Property Rights.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade-marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, source code, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Licenced Intellectual Property Rights: any and all Intellectual Property Rights owned by a third party and licenced to the Supplier and which are utilised by the Supplier in order to deliver the Services and/or the Deliverables to the Customer.

Supplier's Materials: any equipment, materials, documents and other property of the Supplier, owned or provided by the Supplier and used directly or indirectly in the supply of the Services.

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.

1.2 In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 The Contract shall commence on the Commencement Date and shall terminate on the earlier of:

- (a) the completion of the obligations of the Supplier and the Customer pursuant to the Contract;
- (b) the date which is three months after either party has served written notice on the other party to terminate the Contract; or
- (c) the date of termination of the Contract given pursuant to the provisions of condition 9 or condition 11.

2.2 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier are issued or published for the sole purpose of giving an approximate idea of the subject matter described in them. They shall not form part of the Contract or have any contractual force.

2.4 The Conditions together with any Statement of Work apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 The Contract for the provision of Services set out in any Statement of Work shall not take effect until the Customer has signed the applicable Statement of Work and returned it to the Supplier.

3. SUPPLY OF THE SERVICES

3.1 The Supplier shall perform the Services with reasonable care and skill.

3.2 Any time given by the Supplier for the performance of the Services shall be an estimate only and such time shall not be of the essence of the Contract.

3.3 The Supplier shall use reasonable endeavours to observe all health and safety and security requirements that apply at the Customer's premises and that have been communicated to it pursuant to condition 3.4(d), provided that it shall not be liable under the Contract if, as a result of such observation, it is in breach of any of its obligations under the Contract.

3.4 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Contract;
- (b) promptly provide the Supplier its employees, agents, consultants and subcontractors with such materials, information and documentation as are required by the Supplier for the proper performance of the Services;
- (c) provide to the Supplier in a timely manner all documents, information, items and materials in any form (whether owned by the Customer or third party) reasonably required by the Supplier in connection with the Services and ensure that they are accurate and complete in all material respects;
- (d) inform the Supplier of all health and safety and security requirements that apply at the Customer's premises;
- (e) obtain and maintain all necessary licences and consents and comply with all relevant legislation as required to enable the Supplier to lawfully provide the Services, including in relation to the installation of the Supplier's Materials, in all cases before the date on which the Services are to start;
- (f) at its own expense source and/or licence any and all third party software the Supplier requires in order to provide the Services and/or the Deliverables to the Customer and shall ensure that the Supplier is lawfully permitted to use and exploit such third party software for the purpose of supplying the Services and/or the Deliverables;
- (g) at its own expense source and/or licence any and all third party software as is required to enable the Customer's use of the Services and/or the Deliverables; and
- (h) not dispose of or use the Supplier's Materials other than in accordance with the Supplier's written instructions or authorisation.

- 3.5 There is no obligation on the Supplier to support or maintain any third party software referred to in clause 3.4 (f) or clause 3.4(g) above unless otherwise agreed in writing by the Supplier.
- 3.6 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend the performance of the Services until the Customer remedies the Customer Default and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
 - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations under the Contract.
- 3.7 The Customer shall indemnify and keep indemnified the Supplier in full and on demand from and against all losses, costs, claims, liabilities, damages, demands and expenses suffered or incurred by the Supplier arising directly or indirectly from a Customer Default.

4. CHARGES, PAYMENT TERMS AND INTEREST

- 4.1 The amount of the Charges and the applicable payment terms shall be as set out in the Statement of Work.
- 4.2 The Supplier's daily fee rates for each individual are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days.
- 4.3 Notwithstanding any Statement of Work, the Supplier shall be entitled to charge an overtime rate of 25% of the Supplier's standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 4.2 and such additional sum shall be payable in addition to the Supplier's standard daily fee rate.
- 4.4 The Supplier shall be entitled to charge for any Services and/or Deliverables supplied by the Supplier to the Customer, which are additional to the Services and/or Deliverables set out in the Contract provided always that the Supplier shall be under no obligation to supply any such additional services or deliverables unless and until the additional Charges applicable to the supply of any such additional services or deliverables has been agreed in writing by the Customer and the Supplier.
- 4.5 The Supplier shall invoice the Customer on the basis set out in the applicable Statement of Work.

- 4.6 Unless otherwise specified in the applicable Statement of Work, the Customer shall pay each invoice submitted by the Supplier:
- (a) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and
 - (c) time for payment shall be of the essence of the Contract.
- 4.7 The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials and such expenses will be payable by the Customer to the Supplier on demand.
- 4.8 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the subject matter of such VAT invoice.
- 4.9 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 9, the Customer 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 4.9 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%.
- 4.10 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

5. INTELLECTUAL PROPERTY RIGHTS

- 5.1 In relation to Intellectual Property Rights:
- (a) all Developed Intellectual Property Rights in or arising out of or in connection with the Services and/or the Deliverables shall at all times be owned by the Supplier and unless otherwise agreed in writing between the Supplier and the Customer nothing in the Contract shall operate or be deemed to operate

to assign or transfer any such Developed Intellectual Property Rights to the Customer;

- (b) nothing in the Contract shall operate or be deemed to operate to assign or transfer any such Licenced Intellectual Property Rights to the Customer;
- (c) the Supplier hereby grants to the Customer an non-exclusive royalty-free licence to use the Developed Intellectual Property Rights and the Licensed Rights (to the extent the Supplier is lawfully permitted to do so) for the purpose of the Customer's use of the Services and/or the Deliverables;
- (d) the Customer hereby grants to the Supplier an non-exclusive royalty-free licence to use the Customer Intellectual Property Rights for the purpose of delivering the Services and/or the Deliverables to the Customer; and
- (e) the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made by a third party against the Supplier in respect of its use of the Customer Intellectual Property Rights.

6. CONFIDENTIALITY

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This condition 6 shall survive termination of the Contract.

7. DATA PROTECTION

- 7.1 Both parties will 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. In this clause 7, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the Data Protection Legislation from time to time in force in the UK and any other law that applies in the UK.

- 7.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.
- 7.3 Without prejudice to the generality of clause 7.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 7.4 Without prejudice to the generality of clause 7.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
- (a) process that personal data only on the documented written instructions of the Customer unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and

- (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data.

7.5 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with a breach by the Customer of this clause 7.

8. LIMITATION OF LIABILITY

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION

- 8.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.2 Subject to condition 8.1:
- (a) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising from the Supplier's performance or non-performance of the Contract; and
 - (b) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the Charges actually paid under the Contract in respect of the element of the Services giving rise to such liability.
- 8.3 Except as set out in these Conditions all warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law, excluded from the Contract.
- 8.4 The parties each acknowledge and agree that the limitation of liability set out in this condition 8 is fair and reasonable in all of the circumstances of the Contract and that the amount of the Charges has been determined by the Supplier in reliance on the provisions of this condition 8.

8.5 This condition 8 shall survive termination of the Contract.

9. TERMINATION

Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of its obligations under this Contract and (if such breach is remediable) fails to remedy that breach within 10-days after receipt of notice in writing of the breach;
- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 7-days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (h) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in condition 9(b) to condition 9(g) (inclusive);
- (i) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or
- (j) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

10. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the Customer shall, return all of the Supplier's Materials. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of the Supplier's Materials. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping;
- (c) the accrued rights and remedies of the parties as at termination shall not be affected, 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; and
- (d) conditions which expressly or by implication have effect after termination shall continue in full force and effect.

11. FORCE MAJEURE

11.1 For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, pandemic/epidemic, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

11.2 The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

11.3 If the Force Majeure Event prevents the Supplier from performing its obligations under the Contract for more than 8-weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

12. GENERAL

12.1 Assignment and subcontracting

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

12.2 Notices

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at such addressor, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax or e-mail, on the next Business Day after transmission.
- (c) This condition 12.2 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this condition, "writing" shall include e-mails and for the avoidance of doubt notice given under this Contract shall be validly served if sent by e-mail.

12.3 Waiver

A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

12.4 Severance

- (a) If a court or any other competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

12.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

12.6 **Third parties**

A person who is not a party to the Contract shall not have any rights under or in connection with it.

12.7 **Variation**

Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.

12.8 **Governing law and jurisdiction**

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.