

WILSON & COOKE MARKETING LIMITED

WEB SITE DESIGN AND SERVICES AGREEMENT

THIS WEB SITE DESIGN AND SERVICES AGREEMENT is made BETWEEN

- (1) WILSON & COOKE MARKETING LIMITED ("WCM")
- (2) Customer

WHEREAS

(A) The Customer wishes to retain the services of WCM in the [design, development and build of its Web Site (defined below)] on the terms and conditions in this Agreement.

(B) WCM agrees to provide the Web Services (defined below) on the terms and conditions set out below, and in any Web Site Quote/Specification which may be incorporated into this Agreement from time to time.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

"Acceptance Certificate" means the Acceptance Certificate issued by the Customer under Clause 7.3.

"Actual Acceptance Date" means the date when any Web Site is accepted by the Customer pursuant to Clause 7.

"Agreement" means this agreement together with all schedules and any Web Site Appendices incorporated into it from time to time in accordance with Clause 2.

"Charges" means any Development Charges and the Enhancement Charges as specified. "Commencement Date" means the date this Agreement is signed by both Parties. "Confidential Information" means all information designated as such by either party in writing together with all such other information which relates to the business, affairs, products, developments, trade secrets, know-how, personnel and Customers of either party or information, which may reasonably be, regarded the confidential information of the disclosing party.

"Customer Content/Data" means text, graphics, photographs, sounds, information, data, music, video, film or any other copyright work publicly available on the Web Site, or provided for publication on the Web Site either by the Customer or any other third party commissioned by the Customer, together with all User Generated Content and information;

"Development Charges" means WCM's charges in respect of any Development Services.

"Development Deliverables" means the development deliverables agreed in the quote and scope for this project.

"Domain Name" means the domain name registered or to be registered in the name of the Customer in respect of the relevant Web Site, or any other alternative domain name that may be nominated by the Customer and agreed to by WCM throughout the term of this Agreement;

"Enhancement Services" means any modification/enhancement services to be provided by WCM.

"Go-Live Date" means the proposed go-live date in relation to the development for the relevant Web Site.

"Hourly Rate" means WCM's current standard pricing rate from time to time for its services provided on a time and materials basis.

"Information" means information in any form delivered by the Customer to WCM in accordance with Clauses 5 and 6.3;

"Intellectual Property Rights" means patents, trademarks, service marks, database rights, design rights (whether registrable or otherwise), applications for any of the foregoing, logos, copyright, know-how, trade or business names, domain names and other similar rights or obligations whether registrable or not in any territory or jurisdiction (including but not limited to the United Kingdom).

"Law" means any law, statute or regulation and any mandatory instruction, direction, guideline, standard or code of conduct of any governmental or other regulatory authority or agency of competent jurisdiction in each case having the force of law or otherwise enforceable by such person

“Party” means either party to this agreement, collectively referred to as the Parties;

“Project Timetable” means the project timetable set out in any the project timeline document.

“Software” means the WCM Proprietary Software, the WCM Modifications and all other software written by WCM for the Customer in relation to the relevant website, [together with all accompanying manuals and other documentation].

“Standard Rate” means WCM’s current standard pricing rate from time to time for its services provided on a time and materials basis.

“Term” means the term of this Agreement, as set out in Clause 3.

“Third Party Software” means any commercially available third party software, which is recommended or used by WCM within the WCM Web Site design solution, or modified by WCM in accordance with this Agreement.

“User Generated Content” means all such material posted by Users on any Web Site, including but not limited to text, graphics, photographs, logos, designs, drawings, designs, artistic and graphical works, and other information.

“User” means any person other than WCM accessing any Web Site via the Internet or by any other means.

“WCM Modifications” means any modifications or enhancements to the WCM Proprietary Software and any modifications or enhancements to the Third Party Software, together with any documentation and source code modifications specifically developed by WCM for the Customer.

“WCM Proprietary Software” means the proprietary software and documentation (including the source code) developed and owned by WCM including but not limited to related programs, data files, databases, data and other related information stored on computer media or otherwise, together with any subsequent corrections, additions and/or modifications made and supplied by WCM to the Customer as part of the functionality of any Web Site and used by WCM to further develop and modify any Web Site.

“Web Services” means any or all of the Development Services and the Enhancement Services to be provided by WCM.

“Web Site” means any Web Site operated by the Customer for which WCM has provided the services for the Customer.

“Web Site Specification” means any web site specification provided by the Customer.

1.1 Reference to a clause, or schedule is to a clause, or schedule or Appendix of or to this Agreement unless the context requires otherwise.

1.2 Reference to the singular includes the plural and vice versa, and reference to a gender includes the other gender unless the context otherwise requires.

1.3 References to a statutory provision includes a reference to that statutory provision as from time to time amended, extended or re-enacted and any regulations made under it provided that in the event that the amendment, extension or re-enactment of any statutory provision or introduction of any new statutory provision has a material impact on the obligations of either party, the parties will negotiate in good faith to agree such amendments to this Agreement as may be appropriate in the circumstances.

1.4 The headings in this Agreement are for ease of reference only and shall not affect its interpretation.

1.5 In the event that and to the extent only of any conflict between the Clauses and the Schedules, the Clauses shall prevail.

1.6 In the event, and to the extent only, of any conflict between the Web Site Appendices, Clauses and the Schedules, the following order of precedence shall apply:

1.6.1 the Web Site Appendices;

1.6.2 Clauses; and

1.6.3 the Schedules.

2. SCOPE OF THE AGREEMENT

2.1 WCM will provide the Customer with the Web Services.

2.2 The terms and conditions of this Agreement shall apply unless specifically amended and agreed by WCM and the Customer.

3. TERM

3.1 This Agreement shall commence on the Commencement Date and will remain in force unless and until terminated by either Party in accordance with the terms of this Agreement.

4. SERVICES

In consideration of the payment of the Charges WCM shall provide Web Services to the Customer.

5. DEVELOPMENT SERVICES

5.1 WCM shall provide the Development Services and agrees to develop the relevant Web Site, incorporating (where applicable) the WCM Proprietary Software in accordance with the Web Site Specification.

5.2 WCM shall carry out the Development Services in accordance with the Project Timetable.

5.3 The Customer must provide to WCM in a timely manner and in an appropriate format, such Information and Customer Content/Data as may be reasonably necessary to enable WCM to complete the Web Site in accordance with the Web Site Specification, provided that the Customer shall not supply any Information and/or Customer Content/Data which infringes the Intellectual Property Rights of a third party or is fraudulent, offensive, abusive, defamatory, obscene or menacing or causes annoyance, inconvenience or needless anxiety or constitutes unsolicited advertising or promotional material.

5.4 WCM shall convert the Information and/or Customer Content/Data into a display-ready format for the relevant Web Site, to meet the Web Site Specification.

5.5 If the Information and/or Customer Content/Data are not in a suitable digital format, as agreed between WCM and the Customer, an additional charge will be made for its conversion by WCM. Quote for this will be provided and signed off by the Customer before any charge is made. Quote is calculated using WCM standard hourly rate.

5.6 [WCM reserves the right to refer to its work under this Agreement in WCM's sales literature, on WCM's web site or in any sales/promotional materials.]

6. ACCEPTANCE OF THE WEB SITE

6.1 Upon completion of the Development Services and presentation of any Development Deliverables by WCM for acceptance by the Customer, the Customer shall have 15 working days to inspect and test the Development Deliverables, unless otherwise specified in the project plan.

6.2 A request to set a website live will be deemed as final approval for the project and serves as confirmation that all services have been delivered and that you accept the website is complete and the final invoice can be raised unless otherwise agreed. Further amends after the go live date will be charged on an hourly basis, unless otherwise agreed.

Any design or programming changes requested after go live will be charged at our current hourly rate.

6.3 Due to the constant advancement of the Internet and it's underlying technologies including but not limited to security, functionality and accessibility we cannot guarantee your site will be compliant and functional with future server and client side upgrades in server and browser technologies. For this reason we will endeavour to make sure your website is functional and compliant for 6 months beyond this any costs to update your website will be quoted at our current hourly rate, unless otherwise agreed.

Except for instances of Force Majeure, if the Development Deliverables materially fail to meet the Web Site Specification, the Customer shall give WCM notice of the failure, clearly stating the defect. WCM shall then have [20] working days to remedy such failure and re-deliver such Development Deliverables within [five] working days to the Customer. After re-submission, the Customer shall inspect the Development Deliverables to confirm whether they conform to the Web Site Specification. WCM shall be entitled to a reasonable number of re-submissions so long as the Proposed Go-Live Date for the relevant Web Site to which such Development Deliverables relate has not been passed. If the re-submitted Development Deliverables again fail to meet the Web Site Specification at any time after the Proposed Go-Live Date, the Customer may elect:

6.3.1 to accept such Development Deliverables as non-conforming;

6.3.2 to extend the time required for WCM to amend and re-submit the Development Deliverables for testing and acceptance; or

6.3.3 to terminate the relevant Web Site and claim such remedies to which it is entitled under this Agreement.

6.4 The Development Deliverables and therefore the relevant Web Site shall be deemed to be accepted either:

6.4.1 upon the Customer issuing an Acceptance Certificate (whether sent by letter, fax or e-mail) to WCM that the Development Deliverables and therefore the relevant Web Site meets the Web Site Specification; or

6.4.2 on the [twenty fifth (25th)] working day following presentation of the Development Deliverables by WCM for the acceptance by the Customer or on the day that the Customer puts the Development Deliverables into operational use, whichever is the sooner.

Such date shall be the Actual Acceptance Date.

WCM shall, for the term agreed, provide Enhancement Services to the Customer. The Enhancement Services will be provided on or after the Go-Live Date and may include enhancements and modifications to the design of the Web Site.

8. CHARGES

8.1 WCM's hourly rate is chargeable at £65 ex VAT per hour. This is the current standard pricing rate services provided on a time and materials basis.

8.2 A deposit may be required before any work is undertaken. A standing order may need to be completed to begin 6 weeks after initial deposit. VAT is chargeable on all items at the rate and in the manner prescribed by law.

8.3 Within 14 days of the last day of each month, WCM will send the Customer a statement and invoice setting out the Charges due for such month.

8.4 As consideration for the performance of WCM's obligations under this Agreement, the Customer shall pay to WCM the Charges by cheque or BACS, within 30 days of receipt by the Customer of a valid invoice.

8.5 The Charges shall be exclusive of Value Added Tax and any other applicable sales taxes, and the Customer shall be liable for Value Added Tax and any other applicable sales taxes on the Charges at the rate and in the manner prescribed by Law.

8.6 If the Customer does not pay any overdue Charges within five days of WCM's written reminder. WCM may suspend the Web Site Services until such Charges (together with any interest) are paid in full.

8.7 If the Customer fails to pay any sum when due, WCM shall be entitled to interest on the amount due at the rate of 4% per annum above the Lloyds Bank plc. base rate from time to time calculated from the date due until collection.

8.8 The Charges may be increased with effect from each anniversary of the Commencement Date.

8.9 A request to set a website live will be deemed as final approval for the project and serves as confirmation that all services have been delivered and that you accept the website is complete and the final invoice can be raised unless otherwise agreed.

8.10 All of our credit terms are subject to status and are at the sole discretion of WCM. WCM will run any necessary credit checks prior to agreeing terms. A credit application form and references will be required. Credit terms are strictly 30 days unless otherwise agreed.

First time clients will be required to pay an initial deposit followed by a phased payment schedule.

8.11 WCM quotations are valid for 30-days upon receipt, once confirmation to proceed has been received via email or a Purchase Order we will provide a full project timeline with a delivery date to you.

If a project is not completed, tested or approved by you the Client within 6-months of the confirmation to proceed or the delivery date agreed in our project timeline and all deliveries have been met by WCM then we do reserve the right to review the original quotation provided and re-quote at the time project recommences. Our quotation only stands from the date the work was commissioned and the timeline provided by WCM and is valid for a period of 6-months, thereafter a new quotation will be provided to you before we re-commence with the project.

8.12 Travel expenses and meetings outside of a 30 mile radius will be quoted and are not part of any project costs.

9. INTELLECTUAL PROPERTY RIGHTS AND LICENCE

9.1 The Customer shall own all Intellectual Property Rights in:

9.1.1 the Information and Customer Content/Data.

9.2 For the Term of this Agreement, the Customer hereby grants to WCM a non- exclusive, worldwide, royalty-free licence to digitise, convert, install, upload, modify, select, order, arrange, compile, combine, reproduce, store, process, retrieve, transmit, distribute, cache, publish, publicly display, publicly perform, hyperlink, make archive or back-up copies and otherwise use any or all of the Information and/or Customer Content/Data with other third party materials as necessary, for the sole purpose of performing the Web Services in accordance with this Agreement.

9.3 Except as permitted in accordance with this Agreement, WCM shall not use the Customer's Intellectual Property Rights without the Customer's prior written approval.

9.4 For the term of this Agreement WCM hereby grants to the Customer a non- exclusive, world-wide licence to use the Software provided that it is only used for the purpose of operating the relevant Web Site.

9.5 All right, title and interest in and to the Intellectual Property Rights in the WCM Proprietary Software and the WCM Modifications shall vest exclusively in WCM.

9.6 The Customer and WCM accept that WCM shall be the sole owner of any modifications, amendments, improvements and additions to the Software even if made at the request of the Customer. The Customer shall not assert any rights to (or in) such improvements and/or additions.

9.7 Subject to sub-clause 11.1 all right, title and interest in and to the Intellectual Property Rights in any Web Site including the Software (excluding the Information and Customer Content/Data) and any modifications to it shall vest exclusively in WCM.

10. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

10.1 The Customer shall, at all times during and after the term of this Agreement, indemnify WCM and keep WCM indemnified against all losses, claims, damages and expenses (including all reasonable legal fees) in relation to any infringement or alleged infringement of any third party Intellectual Property Rights suffered by WCM as a result of WCM's use or possession of the Web Site Specification and/ or the Information and/or the Customer Content/Data or any part of them ("IPR Claim"), provided that WCM:

10.1.1 shall promptly notify the Customer in writing of any IPR Claim;

10.1.2 allows the Customer to conduct all negotiations and proceedings and gives the Customer all reasonable assistance each at the Customer's cost regarding the IPR Claim; and

10.1.3 makes no admission relating to the IPR Claim.

10.2 The Customer will not compromise, settle or negotiate or make any statement prejudicial to the defence or settlement of any IPR Claim, and will provide such assistance to WCM in defending or settling any IPR Claim as WCM may reasonably request, at the Customer's cost and expense.

10.3 WCM shall, at all times during and after the term of this Agreement, indemnify the Customer and keep the Customer indemnified against all losses, claims, damages and expenses (including all reasonable legal fees) in relation to any infringement or alleged infringement of any third party Intellectual Property Rights suffered by the Customer as a result of the Customer's use or possession of the WCM Proprietary Software and/or the WCM Modifications or any part of them ("Customer IPR Claim"), provided that the Customer:

10.3.1 shall promptly notify WCM in writing of any Customer IPR Claim;

10.3.2 allows WCM to conduct all negotiations and proceedings and gives the Customer all reasonable assistance each at WCM's cost, regarding the Customer IPR Claim; and

10.3.3 makes no admission relating to the Customer IPR Claim.

10.3.4 the Solution has not been modified and/or combined with systems or equipment other than as set out in the Web Site Specification, in which circumstances WCM shall not be liable in relation to the IPR Claim.

10.4 WCM will not compromise, settle or negotiate or make any statement prejudicial to the defence or settlement of any such Customer IPR Claim, and will provide such assistance to the Customer in defending or settling any claim as the Customer may reasonably request, but at WCM's cost and expense.

11. CUSTOMER CONTENT/DATA AND USE

11.1 The Customer shall be solely responsible and liable for the accuracy, legality, currency and compliance of the Information and the Customer Content/Data of any Web Site (including without limitation material that is false, misleading, inaccurate, defamatory, obscene, or is in breach of applicable Laws and/or material that infringes any third party Intellectual Property Rights).

11.2 The Customer shall ensure that the service offered by any Web Site as used by the Users and the Content of the Web Site complies with all applicable Laws.

12. CUSTOMER'S RESPONSIBILITIES AND WARRANTIES

Responsibilities

12.1 The Customer shall provide the Information and Customer Content/Data to WCM for use in connection with the performance of WCM's obligations under this Agreement ("Permitted Purpose").

12.2 The Customer acknowledges that WCM's ability to perform its obligations under this Agreement, is dependent upon the Customer's full and timely co-operation with WCM, including timely provision of information under Clause 5.3, as well as the accuracy and completeness of any Information, which the Customer provides to WCM. WCM shall not be in breach of its obligations under this Agreement if the alleged Default is as a result of the Customer failing in its obligations to comply with its obligations under Clause 5.3.

12.3 The Customer shall provide WCM with access to, and use of, all information, data, documentation, computer time, facilities, working space and office services reasonably necessary to enable WCM to carry out its obligations under this Agreement.

12.4 With prior agreement the Customer shall allow access to the Customer's premises to WCM's personnel during normal working hours or such other times as reasonably required by WCM, and shall provide adequate and free working space, access to telephones, fax machines and the Customer's computer equipment and such other facilities as may be reasonably requested by WCM for the purposes of its obligations under this Agreement.

12.5 The Customer shall provide any test data or other information as reasonably requested by WCM in sufficient time to enable the review and testing of the Web Site to be prepared, and shall provide all facilities and assistance necessary to enable WCM to perform any testing of the Web Site which WCM considers to be reasonably necessary.

Warranties

12.6 The Customer warrants that:

12.6.1 it has obtained all necessary releases, licenses, permits or other authorisations necessary for the permitted use of the Information and Customer Content/Data by WCM as provided for in this Agreement;

12.6.2 all Information and Customer Content/Data whether supplied by or published on a Web Site by the Customer and/or WCM (pursuant to this Agreement), is either the property of the Customer or has been licensed to the Customer such that the Customer has the right to supply the same to WCM. For the avoidance of doubt, sole responsibility for the Information and Customer Content/Data shall remain with the Customer at all times and the Customer shall be responsible for all Information and Customer Content/Data that is provided by the Customer to WCM, and/ or uploaded, posted, emailed or otherwise transmitted via the Web Site;

12.6.3 it will not supply WCM with, not upload to any Web Site, post, email, or otherwise transmit by any Web Site (or request that WCM carries out any such upload, posting, email or transmission on the Customer's behalf), any information or Content that:

12.6.3.1 is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable.

12.6.3.2 is an infringement of any Intellectual Property Rights of any third party;

12.6.3.3 contains software viruses or any other computer code, files or programmes designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

12.6.3.4 is intentionally or unintentionally a violation of any applicable local or national or international Law, and any regulations having the force of Law;

12.6.3.5 is data, which contravenes the United Kingdom Data Protection Legislation in any way;

12.7 The Customer acknowledges that WCM will not and does not control the Information and/or Customer Content/Data published on any Web Site and, as such, are not responsible for the accuracy, integrity or quality of such Information and/or Customer Content/Data.

12.8 The Customer acknowledges and accepts that computer programs are not error-free and agrees that the existence of errors or bugs in the WCM Proprietary Software, which do not affect the performance, and functionality of the Web Site shall not constitute a breach of this Agreement.

12.9 In respect of the Information and Customer Content/Data, the Customer (and WCM if they source/provide content) warrants that it shall comply with all relevant legislation regarding online conduct and acceptable content.

12.10 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to satisfactory quality and fitness for purpose) are hereby excluded to the extent permitted by Law.

13. CONTENT OF THE WEB SITE

13.1 The Customer acknowledges that it is not WCM's responsibility to screen, and WCM will not be screening, Information and/or Customer Content/Data on any Web Site.

13.2 WCM and its appointed agents shall have the right (but not the obligation) in their sole discretion to refuse to incorporate any Information and/or Customer Content/Data into a Web Site that WCM reasonably believes is or will be in breach of any or all of Clauses 11 and 12.6 or is otherwise objectionable and/or is published on or otherwise available via any Web Site.

13.3 The Customer shall evaluate and shall be responsible for all liability arising out of the use of any Information and/or Customer Content/Data, including any reliance on the accuracy, completeness, or usefulness of such Information and/or Customer Content/Data.

14. WCM'S RESPONSIBILITIES AND WARRANTIES

Responsibilities

14.1 WCM shall not re-write or otherwise use any portion of the Information and/or Customer Content/Data to create original content for publication or re-transmission, save in relation to carrying out its obligations in this Agreement.

Warranties

14.2 WCM warrants that:

14.2.1 in performing its obligations under this Agreement, it shall use industry standard materials, and shall provide services in a professional, workmanlike and timely manner, in accordance with generally accepted IT industry standards as at the date of this Agreement and with all reasonable care, skill and diligence.

14.2.2 at the point of Actual Acceptance, it shall use all reasonable endeavours to check for commonly known viruses, disabling programs or devices in any software provided by WCM under this Agreement PROVIDED THAT WCM shall not be responsible for viruses or other disabling programs introduced by any third party software.

14.2.3 that it will comply with its obligations under the Data Protection Act 1998.

14.3 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to satisfactory quality and fitness for purpose) are hereby excluded to the extent permitted by Law.

15. INDEMNITY

15.1 The Customer shall indemnify WCM against any loss, damage, cost or expense (including reasonable solicitors' fees and expenses) WCM may suffer or incur as a result of:

15.1.1 any claim by any third party that the Information and/or Content/Data is fraudulent, offensive, abusive, defamatory, obscene or menacing or causes annoyance, inconvenience or needless anxiety or constitutes unsolicited advertising or promotional material;

15.1.2 any claim by a third party arising from the Customer's breach of the warranties under Clauses 12.6 to 12.9 (Warranties) above; and

15.1.3 any claim (without limitation) by a User of any Web Site arising out of or in connection with any service offered by the Customer on its Web Site.

16. LIMITATION OF LIABILITY

16.1 Neither Party excludes or limits its liability to the other party for fraudulent misrepresentation or for death or personal injury, to the extent that such death or personal injury results from the negligence or wilful default of that party, its servants, agents, employees or subcontractors.

16.2 Subject to clauses 10, 15 and 16.1 the liability of either Party whether in contract, tort or otherwise flowing from any one event or series of connected events shall not exceed the Charges paid by the Customer.

16.3 Neither Party shall be liable to the other for any loss of profits, goodwill, revenues, future business or opportunities or for indirect, special or consequential loss.

16.4 The Parties expressly agree that should any limitation or provisions contained in this Clause 16 be held to be invalid under any applicable statute or rule of law it shall to that extent be deemed omitted but if any Party thereby becomes liable for loss or damage which would otherwise have been excluded, such liability shall be subject to the other limitations and provisions set out herein.

17. TERMINATION

17.1 No earlier than [one] year after the Commencement Date either Party may terminate this Agreement, in whole or in part, by [three] months written notice. However, neither Party may terminate the Agreement under this Clause 17.1 if any Web Services are outstanding.

17.2 Either Party may terminate this Agreement if the other is in material breach of this Agreement and fails to remedy such material breach (if capable of remedy) within [30] days of a written notice to do so or immediately if such breach is not capable of remedy.

17.3 Either Party may terminate this Agreement immediately and without notice if:

17.3.1 a receiver, administrative receiver, liquidator or administrator is appointed or any encumbrance takes possession of the undertaking, property or assets (or any part thereof) of the other Party; or

17.3.2 the other Party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 save that the reference in that section to "£750" shall be replaced by "£10,000";

17.3.3 the circumstances in Clause 21 (Force Majeure) prevail for a period exceeding 10 working days in relation to a substantial part of the Web Services.

17.4 Termination of this Agreement shall be without prejudice to any other rights or remedies of either Party which shall have accrued or shall thereafter accrue to either Party.

17.5 Upon termination of this Agreement:

17.5.1 the licence granted by WCM to the Customer under Clause 12.5 to use the Software should expire.

17.5.2 the Customer shall pay WCM the Charges for performing the Web Services at the rates set out in the relevant Web Site Appendices up to the termination date or the expiration of the notice served in accordance with this Clause; and

17.5.3 WCM shall, as soon as reasonably practicable, supply to the Customer any Information and/or Customer Content/Data.

17.6 The terms of Clauses 1, 8, 9, 10, 15, 16, 18, 20, 27, and 28 shall survive the termination (howsoever arising) of this Agreement.

18. CONFIDENTIALITY

18.1 Subject to Clause 5.6, each Party agrees and undertakes that it will hold in complete confidence any Confidential Information disclosed to it, and will not disclose it in whole or in part at any time to any third party, nor use Confidential Information for any purpose other than the performance of its obligations under this Agreement ("Permitted Purpose"). This provision shall survive the termination of this Agreement for any reason for a period of [2] years commencing immediately on the date of such termination.

18.2 Any Confidential Information, whether contained in original or copy documents, shall at all times remain the property of the party disclosing the Confidential Information (“Disclosing Party”) together with all notes, memoranda and drawings that have been made as a result of access to such Confidential Information.

18.3 The party receiving Confidential Information (“Receiving Party”) shall hold in confidence all Confidential Information disclosed to it by the Disclosing Party, and the Receiving Party will use no Confidential Information for any purpose other than the Permitted Purpose without the prior written permission of the relevant Disclosing Party.

18.4 The obligations set out in this Clause 20 shall not apply to any Confidential Information which:

18.4.1 at or prior to the time of disclosure was known to the Receiving Party as evidenced in writing, except to the extent that such information was unlawfully appropriated;

18.4.2 at or after the time of disclosure becomes generally available to the public other than through any act or omission on the part of the receiving party.

18.4.3 is received from a third party free to make such disclosure without breaching any legal obligation.

18.4.4 is independently developed by the receiving party; or

18.4.5 is required to be disclosed by Law, court order or request by any government or regulatory authority.

19. CHANGE CONTROL

No changes may be made to any term of this Agreement or any Web Site Specification, without both Parties agreement.

20. DATA PROTECTION

20.1 Both Parties warrant that they will duly observe all their obligations under the Data Protection Act 1998 (as applicable) which arise in connection with this Agreement. Without generality of the preceding sentence, both Parties shall:

20.1.1 take reasonable security measures against unauthorised access, alteration, disclosure, destruction or accidental loss of personal data; and

20.1.2 obtain and maintain at all times a registration or notification under the Data Protection Act 1998 (as applicable) appropriate to the performance of their obligations under this Agreement.

21. FORCE MAJEURE

21.1 Neither Party shall be liable to the other for any delay in performance or failure to perform its obligations in accordance with this Agreement where such delay or failure is due to circumstances beyond its reasonable control such circumstances including, but not restricted to, fire, flood, government act, act of God and legislative constraints. A circumstance will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of such Party, its servants, agents, employees or subcontractors.

21.2 If either of the Parties shall become aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any failure or delay on its part, it shall forthwith notify the other and shall inform the other of the period which it is estimated that such failure or delay shall continue.

21.3 Should a circumstance of Force Majeure persist for a period of greater than [90] days, either Party may by written notice to the other terminate this Agreement forthwith.

22. ASSIGNMENTS AND SUB-LICENSING

The Customer shall not be entitled to assign, novate, sub-licence or otherwise dispose of the whole or any part of this Agreement or its rights hereunder without the prior written consent of WCM.

23. NOTICES

23.1 Any notice or communications between the Parties to be given under this Agreement must be in writing to the addresses given below and may be delivered and shall be deemed to have been received at the following times:

23.1.1 by first class post - 48 hours after dispatch;

23.1.2 by facsimile transmission - immediately the sender receives confirmation of receipt.

23.1.3 by hand delivery - immediately upon receipt by the recipient.

23.2 The addresses referred to in Clause 25.1 above are: WCM Addressee: [Head of Legal and Commercial Affairs]
Address: Unit C2, Waterfold Park, Bury, Lancs BL9 7BR

23.3 Either Party may, by a notice given in accordance with this Clause 25 change its address or facsimile number for the purpose of this Clause 25.

24. WAIVER

No failure, delay, relaxation or forbearance on the part of either Party in exercising any power or right under this Agreement shall operate as a waiver of such power or right.

25. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provisions eliminated. In the event of a holding of invalidity so fundamental so as to prevent the accomplishment of the purposes of this Agreement, WCM and the Customer shall immediately commence good faith negotiations to remedy such invalidity.

26. RELATIONSHIP

26.1 WCM and the Customer acknowledge and agree that this Agreement shall not constitute, create or give effect to a joint venture, pooling arrangement, principal/ agency relationship, partnership or formal business organisation of any kind and neither WCM nor the Customer shall have the right to bind the other without the other's express prior written consent.

26.2 A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person, which exists or is available otherwise than pursuant to that Act.

27. DISPUTE RESOLUTION

27.1 Any dispute under this Agreement will be escalated as follows:

Escalation Level WCM Representative User Representative Period allowed for Resolution

1. First Level WCM Account Manager - 3 working days
2. Second Level WCM Director - 5 working days

27.2 Any dispute, which is not resolved at the end of the cumulated period in the fourth column above and is of a technical nature shall be referred to an independent expert appointed either:

27.2.1 by the Parties or (failing such appointment within 10 days of a notice from either party proposing an expert);

27.2.2 by the President for the time being of the British Computer Society on the application of either Party.

27.3 Any person to whom a reference is made under clause 27.2 will act as an expert and not as an arbitrator. The Parties agree that the decision of the expert (which will be given in writing stating reasons) will be final and binding.

27.4 Each party will provide the expert with such information as he may reasonably require for the purposes of his determination. If either Party claims any such information to be confidential to it then, provided in the opinion of the expert that the party has properly claimed the same as confidential, the expert will not disclose the same to the other Party or to any third party.

27.5 The expert's costs will be borne equally between the parties unless the expert in his decision determines otherwise, which decision will be final and binding on the parties.

27.6 Nothing in this clause 27 will restrict, at any time, either Party's freedom to commence legal proceedings to preserve any legal right or remedy or to protect any intellectual property or trade secret right.

28. ENTIRE AGREEMENT

28.1 This Agreement (including any Web Site Appendices) constitutes the entire agreement between the Parties relating to the subject matter of this Agreement.

28.2 Except for any misrepresentation or breach of warranty, which constitutes fraud:

28.2.1 the Agreement supersedes and extinguishes all previous agreements between the Parties relating to the subject matter hereof and any representations and warranties previously given or made other than those contained in this Agreement;

28.2.2 each Party acknowledges to the other (and executes the Agreement in reliance of such acknowledgment) that it has not been induced to enter into the Agreement by, not relied upon, upon representation or warranty other than the representations and/or warranties contained herein;

28.2.3 each Party irrevocably and unconditionally waives its any right it may have to claim damages or to rescind this Agreement by reason of any misrepresentation and/or warranty not set forth in the Agreement.

28.3 Each of the Parties acknowledges and agrees for the purposes of the Misrepresentation Act 1967 and the Unfair Contract Terms Act 1977 that the provisions of this clause 30 are reasonable.

29. VARIATION OF AGREEMENT

This Agreement shall not be varied or amended unless a duly authorised representative of the Customer and WCM agrees such variation or amendment in writing.

30. SUCCESSORS

This Agreement shall be binding upon and endure for the benefit of the successors in title of the Parties hereto.

31. NON SOLICITATION OF STAFF

For the term of this Agreement and for the period of [six] months thereafter, without the prior written consent of the other party, neither party shall actively solicit or entice away (or seek or attempt to entice away) from the employment of the other party any person employed (or any person who has been so employed in the preceding [six] months) by such other party in the provision or receipt of the Services. For the avoidance of doubt, this Clause shall not apply to unsolicited responses by employees to general recruitment advertising.

32. LAW

This Agreement shall be governed by and construed in accordance with English Law and each party agrees to submit to the exclusive jurisdiction of the English Courts.

In witness whereof the parties hereto have caused this Agreement to be executed by their respective duly authorised representatives.

33. PROPOSALS, DESIGN AND BUILD

33.1 QUOTATIONS

A full quotation will be provided detailing the products and services offered before your order is taken.

We will make a formal proposal detailing pricing, timing, and assumptions and project timeline.

PLEASE NOTE: Formal confirmation to proceed is required in writing, and/or a PO to any work commencing.

33.2 APPROVED QUOTATIONS

WCM quotations are valid for 30-days upon receipt, once confirmation to proceed has been received via email or a Purchase Order we will provide a full project timeline with a delivery date to you.

If a project is not completed, tested or approved by you the Client within 6-months of the confirmation to proceed or the delivery date agreed in our project timeline and all deliveries have been met by WCM then we do reserve the right to review the original quotation provided and re-quote at the time project recommences. Our quotation only stands from the date the work was commissioned and the timeline provided by WCM and is valid for a period of 6-months, thereafter a new quotation will be provided to you before we re-commence with the project.

33.3 DESIGN

Concept designs will be produced and page layout and navigation must be agreed before web development work can proceed. Once a design encompassing page layout and navigation has been agreed and signed off, any major changes to page layout, content supplied, navigation or agreed animated designs will be quoted and charged for as additional work.

Once the two concepts are completed, they will be submitted for your review. This allows you to choose one of the submitted concepts and request up to 2 rounds of revisions to the concept for final template approval. This does not equal a third design concept. Concepts will be provided to you and ask that you provide all revision requests in writing, all at the same time. Doing so will reduce the risk of a missed revision request. A design revision provides for the following; Colour Tweaks, Font Tweaks, Design Element Locations (moving elements left, right, up, down, etc.), Minor Graphic Changes (buttons, arrows, etc.).

To quantify this, a round of revisions is anything we can complete in a 4-hour period. If your revision request exceeds 4 hours of work, we will provide a detailed quotation showing which revisions we can complete in 4 hours and quote the remaining revisions at our hourly rate.

Any amends, additions or deletions required to the main design template after approval has been given will be charged at our hourly rate. Any elements of the web site over and above the original specification as detailed above, or after the web site has been made live on the company domain name will be charged for. Costs for additional work will be provided and agreed before any further work is undertaken.

In addition, all creative concepts presented herein remain the intellectual property of Wilson Cooke until all invoices have been settled and should we not be selected as the preferred supplier the above ideas remain our property and cannot be used without our express written permission

Any stock library images used will be charged as required. The Customer requires approval for use of stock library images before proceeding to confirm agreement has been made both on the use and extra cost involved

Basic logo design comprises of 2 concepts (6 hours work) and thereafter 4 hours of amends, totalling 10 hours. Anything outside of this and after the 10 hours will be charged at our hourly rate.

33.4 WEB DESIGN AMENDS

Any features or services not stated in the initial web site proposal, should be considered as additional extras and not included within the services quoted and will be charged over and above the quote provided. Any such additional extras will be quoted and agreed before work is undertaken. 2 rounds of revisions are included in the initial concepts. Thereafter 1 full set of amends for the remaining site is permitted after the site is complete totalling 4 hours, which will be undertaken when the site is ready for testing. If your revision request exceeds 4 hours of work, we will provide a detailed quotation showing which revisions we can complete in 4 hours and quote the remaining revisions at our hourly rate.

33.5 WEBSITE CONTENT AND IMAGES

All web site content and images must be supplied to WCM in digital format unless otherwise agreed.

Any stock library images used will be charged as required. The Customer requires approval for use of stock library images before proceeding to confirm agreement has been made both on the use and extra cost involved.

Copywriting services can be provided upon request and will be quoted for separately if required.

33.6 WEB DESIGN / WEB DEVELOPMENT (Project Specification and lifecycle)

A full project specification document will be provided at the start of the project and will form the basis of the development work carried out by WCM. This document details all of the technical elements of the build that WCM are required to deliver on you behalf and it is your responsibility review and approves deliverables prior to work commencing.

PLEASE NOTE: This document forms the basis of our agreement therefore any work not detailed within this document does not form part of our quote and agreement with you and therefore will not be delivered unless otherwise agreed with WCM.

Testing & Debugging

During the development phase, we may ask you to take a look at work completed and test for functionality. All development work will be done on our internal development servers. There will also be a final testing and debugging session (if needed) just before delivery of the finished web site.

A test plan will be provided prior to any work being approved for go live, with a requirement for both WCM and yourself to complete fully as part of your testing, debugging and system sign off.

A request to set a website or changes to a website live will be deemed as your final approval for the project. This is your confirmation to us that all services have been delivered and that you accept the website is complete and the final invoice can be raised unless otherwise agreed.

Sign Off, Final Acceptance & Final Invoice

After all testing has been done and everything is determined to be functional per our arrangement, we will require you in writing to sign off on the go live plan. This indicates that you accept the work that has been performed and that nothing else needs to be completed or corrected.

Once live we will raise the final invoice, which will be subject to our credit terms.

Go Live Process

Once you have given us your approval in writing that you are happy that the deliverables have met the requirements of the project, a go live plan will be provided and supplied to you by WCM. The standard go live process stipulates that 5 working days are required to prepare the site and code in order to make live. During this time there will be a full content freeze and no other changes must be made to the site, should any changes be made during this time by yourself in the Content Management System WCM accept no responsibility if these changes are not transferred into the live environment.

Domain control and hosting transfer will also be carried out during this time.

Training

One full training session will be provided before the site goes live or prior to site population (if this is being completed by you). This training session will be to a maximum of 4 hrs and will be held at WCM offices, Bury. Should training be required at your premises this can be arranged for on request and quoted accordingly.

Thereafter any additional training or support (including telephone support) required will be charged at our hourly rate.

Web Browser Build Compatibility and Support

Full Support

- The latest stable version of Google Chrome, Firefox, Internet Explorer and Safari at the time of quote being approved. This does not include any versions running in Beta mode.
- The previous version of the browsers mentioned above.

Out of Support

- Browsers older than defined above are not covered under our "Standard Support". Support is at a best endeavours case but is not considered standard unless this is discussed and included in the project scope.
- Browser support will be based on current analytics data (if available) to review the usage and trends to determine what should be the priority and focus for the development.
- Web browser support and compatibility will be discussed in the planning stage of the project and thoroughly researched and defined.
- If you have a specific request regarding an older browser version that you require your websites to function in please ensure you request this before a quote is produced and development starts.

33.7 PLUG-INS

Installation of any plug-ins into the website CMS can only be performed by WCM employees; we do not allow access to any of our servers via FTP or client control over plug-in installation.

The reasons for this are to:

- Ensure the security and integrity of our server

- Ensure the website codebase is consistent with our version control system
- Allow WCM to review all plug-ins for security and licensing reasons

Any plug-ins required can be requested and a quote provided to review and installs these.

33.8 PRINT

Final sign off must be received before any work can be sent to print, a printers proof will be supplied with sign off document.

Amends: Within the initial costs, after the initial layout/designs have been agreed and content is then supplied, we will set the supplied content within the agreed design concepts. Thereafter we allow for two sets of amends. Any further amends thereafter will be charged our hourly rate.

Print Management: We do not charge any additional extra for print management if our own printers are used. Should your own printers be used then a disc charge will be made and a print management charge if we are required to coordinate and check the print.

Carriage is charged on all items delivered via courier service.

VAT is chargeable on all items at the current rate and in the manner prescribed by law.

33.9 AMENDMENTS

Any amends, additions or deletions required to the web site or collateral over and above the original quotation, or after the web site has been made live on the company domain name will be charged for and quoted separately. Costs for additional work will be provided and agreed before any further work is undertaken.

34. SYSTEM MAINTENANCE AND SUPPORT

34.1 NEW WEBSITES AND APPLICATIONS

Due to the constant advancement of the Internet and it's underlying technologies including but not limited to security, functionality and accessibility we cannot guarantee your site will be compliant and functional with future server and client side upgrades in server and browser technologies. For this reason we will endeavour to make sure your website is functional and compliant for 6 months beyond this any costs to update your website will be quoted at our current hourly rate, unless otherwise agreed.

6 months support starts from the date the website goes live. On expiry of this 6 month all maintenance and support will be charged at our normal hourly rate unless a monthly Website Support Agreement is in place. This covers (be not exclusively):

- System maintenance due to browser, server, operating system or any other reason
- System bug fixes or any changes required for ensure your system remains functional
- 3rd party integration issues/support
- System support (phone or email)
- Mandatory security upgrades

This support does not cover any new functionality requests; these will be quoted as normal.

34.2 FUNCTIONAL ENHANCEMENTS TO EXISTING WEBSITES AND APPLICATIONS

For any new functionality developed on your system we will support this functionality as above for 3 months from the date this goes live. On expiry of the 3 months this functionality then falls under ad-hoc chargeable support or your Website Support Agreement if you have one in place.

34.3 WEBSITE SUPPORT AGREEMENTS

We offer an on-going retainer following the initial 6 months to help provide the best possible support and service and to ensure the maintenance of your system is as cost effective as possible.

Details of this including costs, terms and SLA are available on request.

35. COMPOSE.CONTACT EMAIL MARKETING SYSTEM

35.1 A GUIDE TO THE DO'S AND DON'TS OF EMAIL MARKETING

While UK email legislation doesn't prohibit sending unsolicited commercial email to business email addresses, it can be something of a grey area. This is also because often a personal address and a business address can be the same. You should be aware that different rules apply to emailing businesses as opposed to consumers. Therefore, here is a summary of best practice to help you to work within the law and retain good relationships with your email recipients:

1. All email addresses (work or home) should be considered to be personal data.
2. If email addresses are to be used for marketing purposes, this should be clearly stated at the point of collection.
3. Once informed, the user should be able to refuse permission for their email to be used for marketing purposes (i.e. opt-out).
4. If email is to be sent to those with whom a customer relationship exists, the content should be in reference to similar products and services.
5. If the email addresses are to be shared with third parties, this should be clearly stated at the point of collection.
6. Email addresses should not be copied from websites and used for marketing purposes without the recipients' knowledge. Be very wary of renting or purchasing email lists from little known list brokers or from sources such as eBay. The vendors of such lists will claim that the lists are permission based but in many cases they are simply harvested addresses and using them for your consumer mailings may result in prosecution and having your website / web addresses / email addresses blocked for accusations of spamming.
7. Recipients should be able to refuse permission for further marketing messages to be sent to them at any time.
8. Your identity as the sender should never be disguised or concealed and always include a valid reply address.
9. In every communication, recipients must be given a simple and clear means of opting out from receiving future emails. For example, an unsubscribe link at the bottom of an email – Compose.Contact will not allow you to send out any email without an opt-out link.
10. When an opt-out request is received it must be honoured, with the contact details ideally being "suppressed" rather than deleted. If after receiving a request for an opt out you continue to mail them you are then committing an offence and are potentially liable to be fined – which in theory could be as much as £5,000 per offence.
11. You must only send out marketing emails to customers who have opted in

35.2 COMPOSE CONTACT EMAIL SYSTEM

Use of this system assumes you are complying with the above and UK legislation. Sending unsolicited spam email from our system can result in the IP address being blacklisted and we would therefore request that you please capture email addresses in a legitimate fashion. If a customer makes a complaint against any emails you have sent out you may be required to prove where you obtained this data from and that the data is opted in. It is advisable to retain proof of where you acquired any 3rd party data, or demonstrate that your data has been acquired through opt in. Even if you purchase your data from a third party company, the recipients may still complain to you, their ISP or email provider resulting in blacklisting from their servers e.g. A Hotmail user may complain to Hotmail resulting in your domain and the server IP being blocked from their server, which could mean that all Hotmail accounts would no longer accept emails from our system. If the IP becomes blacklisted or your domain is blacklisted this could result in emails from your system not being received by recipients, if this happens it will require a new IP address to be purchased and setup on our system and/or a new domain purchasing and setting up on your account for sending. Abuse of email and unsolicited spamming could result in us having to remove your account.

Email is not always instant, so please bear this in mind when sending out your communications, delays can occur on the server or within any telecoms infrastructure. If your domain or IP address becomes blacklisted charges will be made for any associated costs to set a new domain and IP.

Email charges available on request.

Monthly transactions are monitored and if your level exceeds your current bracket for a 3-month consecutive period you will automatically be moved up to the next bracket.

35.3 EMAIL MARKETING DO'S

- Resize your images to the correct dimensions before uploading.
- Copy and paste any text formatted in word into notepad before placing in your email to
- Remove any formatting.
- Format your text within the bulk email system editor.
- If using your own templates ensure any CSS is inline or avoid altogether.

35.4 EMAIL MARKETING DO NOT'S

- Upload raw unformatted images directly from your camera.
- Copy and paste content from Microsoft word or any other Desktop Publishing Program.
- Copy and paste content directly from a webpage into an email.
- Use background images, as these are not fully supported by all Email clients.

35.5 ANTI-SPAM POLICY – EMAIL MARKETING

Wilson & Cooke has zero tolerance for Spam or non-permission based email communication and by using our solution we expect you to adhere to current legislation and respect the inbox of recipients.

35.6 DEFINITION OF SPAM

Spam is unsolicited email and is also known as Junk or UCE (Unsolicited Commercial Email). By sending email only to those who have requested to receive it, you are following accepted permission-based email guidelines. Email sent to purchased lists, presumed affiliate acquaintance, data partnerships, or indirect subscription services (unless their is confirmation of opt-in) is generally considered to be Spam.

35.7 ACCEPTABLE USE

Compose.Contact is committed to a permission-based ethic in providing our email services. Simply put, we don't tolerate Spam. We expect our clients to use mailing lists based on established business relationships or legitimate opt-in processes, and we offer services to help build, maintain and cleanse email lists.

35.8 UNACCEPTABLE USE

The following is a non-exclusive list of content and behaviours that constitute unacceptable use:

- The sending of unsolicited email (Spam) including without limitation the sending of advertisements or solicitations that do not clearly and conspicuously identify the message as an advertisement or solicitation, or do not include a valid physical postal address of the sender. Clients that utilise compose.contact's services for Spam purposes are subject to prosecution to the fullest extent of the law.
- Content that commits acts of copyright, trademark, patent, trade secret or other intellectual property infringement.
- Content that is offensive to others, including content, which aggravates, harasses, threatens, defames, or abuses others.
- Content that contains or links to nudity, pornography, adult content, sex, extreme violence, or foul language.
- Content that contains, links to, or participates in pyramid schemes, gambling, raffles, lotteries, and so forth

- Content that posts or discloses personal identification information or private information of individuals under the age of 13, or in connection with materials directed toward individuals under the age of 13 without verifiable parental consent.
- Content that provides, sells, or offers to sell the following: controlled substances, illegal drugs and drug contraband, alcohol, weapons, pirated materials, pornography or sexual products, programs to attack others, illegal goods, escort services, instructions on making, assembling, or obtaining illegal goods or weapons, information used to break copyright or trademark violations, to destroy others' property, or to harm any people or animals.
- Content that takes part in, or allows any third party to take part in, the following: reverse engineering, reverse compiling or otherwise deriving the underlying source code or structure or sequence of the Technology; individual pass-working of Member sites or pages; altering copyright notices and attributes (unless permitted in writing by the author/owner); and such practices.

35.9 MANDATORY CONTENT

Every email you send, unless there is a legitimate reason not to do so, using our solution must include the following:

- A single-click unsubscribe link that instantly updates the users opt-out information.
- The name and physical address of the sender.

35.10 SECURITY OVERVIEW – EMAIL MARKETING

Your privacy is respected and your data and information protected by Wilson & Cooke. No third party has access to your personal account information, user lists, campaign reporting or any other related information stored within our solution.

36 WEBSITE HOSTING

36.1 INFRASTRUCTURE

Your website will be hosted on one of WCM shared servers; this is a dedicated server hosted with Rackspace (our hosting solutions partner) for WCM but functions as a shared server across our client base.

All our servers are hosted behind a physical firewall for added security and are locked down so a select number WCM employee from with WCM network can only access them.

We do not allow external FTP access to our servers by any Customer or 3rd party exist for integrations. Codebase changes to any system hosted on our servers can only be made by WCM employees.

36.2 SERVER MANAGEMENT

All our servers are Linux running Apache, PHP and MySQL. The server operating system is managed and maintained by WCM. Rackspace will only make changes to the server setup at the request and sign-off by a WCM employee with specific access/responsibility.

36.3 STANDARD WEB HOSTING

Your website will be hosted on a WCM shared server, this is a dedicated server for WCM but functions as a shared server across our client base. We also offer a dedicated server option that can be quoted on request and dependent upon your specific requirements on a site-by-site basis.

This server is hosted with Rackspace our hosting solutions partner and sits behind a dedicated physical firewall for added security.

This is for us to host the website on a Linux server. This will start from the day the site goes live and will need to be renewed annually. This is an annual fee that covers the space and bandwidth your site use on our servers. Your bandwidth and web space will be monitored and reviewed every 3 months, in the event that you exceed the monthly bandwidth stated in the Standard Shared Hosting option below on average over a 3-month period your hosting charges will be reviewed and adjusted accordingly. Before any changes are made to your hosting charges we will discuss this with you and also analyse the cause of the high bandwidth and suggest ways to reduce this (if possible).

If on shared hosting and your web usage levels are compromising the server, WCM reserve the right to suspend the website for an indefinite period until the issue is resolved. WCM also reserve the right to refuse to host on a shared server if your load exceeds the limits of the server you have agreed to.

Additional charges will apply for providing the website and/or collateral to you on disc at any time. Charges will vary upon request.

Agreed Hosting - Standard Shared Hosting on a WCM Server

- Daily Backups (see 36.3 for details)
- Backup retention 2 weeks
- Server level aim 95% uptime
- Standard Disaster Recovery (see section 36.4)
- Maximum bandwidth 15GB per month
- Maximum disk space 5Gb
- We never *knowingly* disclose information to other parties

Additional Hosting Extras (Costs available on request):

- Hourly backups
- Improved Disaster Recovery policy
- Increase monthly bandwidth allowance
- Increased disk space allowance
- Domain registration and renewal
- Backup retrieval due to your own errors or deletions

36.4 STANDARD BACKUP POLICY

Rackspace manages our server backups as follows:

File system:

- Daily incremental
- Weekly full file system

Database

- Daily full

36.6 SERVER SOFTWARE VERSION AND HARDWARE

Under our standard shared hosting costs this does not cover any upgrades to any of the software, operating systems or hardware upgrades.

The version installed on our shared hosting servers are selected based on the website running on that server. Due to this the versions may not be the most up-to-date available.

If you require hosting on a server running the most up-to-date software and operating systems available this should be made clear at the start of the project so we can discuss options available and associated costs.

We aim to mitigate any security or vulnerability risk via:

- Sound coding practices following the OWASP guidelines
- Physical firewall that sits in front of our production servers
- Server monitoring tools to notify us of any issues immediately
- Partnering with Rackspace who provide excellent setup, support and security

When hosting a website with us on our standard shared the Customer accepts the server setup and software versions installed at the start of the project and any security or vulnerability issues that come with this.

36.7 EXTERNALLY HOSTED WEBSITES

We do not accept responsibility or take any role in the management of any external servers. Any issues that arise due to an alternate providers hosting including security, backups, server updates and maintenance is not the responsibility of Wilson Cooke. Any support needed as a result of 3rd party hosting will be charged at our standard hourly rate. In order to host these websites on an external server Zend Guard Loader or Zend Optimizer must be installed (dependant on your websites, for full details please contact Wilson Cooke).

36.8 MOVING YOUR WEBSITE TO ALTERNATE HOSTING

If you would like to move your website to an alternate hosting provider we are able to accommodate this, please contact your Account Handler at Wilson Cooke who will be happy to discuss your requirements and reasons for moving the site. We will then provide a quote for dinking up your and sending this to you on request. This cost does not include any support required to setup the website on the alternate hosting, any support required after a site has been fully functional on our servers will be charged at our standard hourly rate. The external server must meet the minimum specification requirements supplied to you by Wilson Cooke. Website code will not be released to you the client until your account has been settled in full.

36.9 DISASTER RECOVERY

All disaster recovery is on a best-case scenario; we will endeavour to recover your site back up to a working state up to the last available back up within the shortest time possible. We do not offer any guarantees on recovery time.

The following scenarios exist for Disaster Recovery:

- Hardware Failure
 - Addressed by our service provider within 1 day
- Total Server Failure
 - Addressed by our service provider and WCM.
 - Timescale is within 10 days (best case)

36.8 CODE ENCRYPTION

All Wilson Cooke Products and any other bespoke development are encrypted in order to protect the IP and prevent this from being copied or modified by any 3rd party. In order to host these websites on an external server Zend Guard Loader or Zend Optimizer must be installed (dependant on your websites, for full details please contact Wilson Cooke).

36.9 IP AND LICENSING

Upon final settlement of your account the following applies:

IP on graphic design belongs to you the client once your account has been settled in full.

Wilson Cooke Products

All products that come under the Wilson Cooke Compose systems e.g. ecommerce system, content management system, bespoke developments (where IP has not specifically being given to the client), the IP remains with Wilson Cooke. A perpetual licence is assigned to you to use these products for which no on-going licensing charges will be applied.