

TERMS OF ENGAGEMENT OF AGILE ABILITY

This document sets out the terms and conditions upon which AgileAbility Ltd with company number 12157090 with registered address at 2 De Clare Court, Bletchingley, Redhill, Surrey, England, RH1 4GA (“**AgileAbility**”) has agreed to provide its services to you, as the Client (“**Terms**”). Your acceptance of any AgileAbility quotation or service indicates your explicit and/or tacit acceptance of the terms of engagement listed below, and any Annexures attached.

1. RELATIONSHIP BETWEEN THE PARTIES

- 1.1. AgileAbility is a service provider and has no employment relationship with the Client. Nothing contained in these Terms shall be deemed to constitute a partnership, joint venture, employer/employee agreement or the like between them. AgileAbility shall not, by reason of the actions of any of the other parties, incur any personal liability as co-partner to any third party.
- 1.2. The relationship between the Parties under this Agreement is and shall remain non-exclusive. Both Parties are free to enter into similar relationships with other parties.

2. THE SERVICES

- 2.1. AgileAbility will provide its services based on the requirements communicated by the Client and set forth in the Quotation Order Form (“**the Services**”). From the Services, AgileAbility will create the deliverables for the client (“**the Deliverables**”).
- 2.2. AgileAbility reserves the right to update and change the Terms of Service by posting updates and changes to the <http://agileability.co.uk/termsandconditions/> website. You are advised to check the Terms of Service from time to time for any updates or changes that may impact you. and if you do not accept such amendments, you must cease using the Services.
- 2.3. The Quotation Order Form is valid for the period stipulated therein, and after the expiry date AgileAbility reserves the right to alter or decline any Services listed in the Quotation Order Form not accepted and/or paid for by the Client.
- 2.4. Once the Quotation Order Form has been accepted and the Deposit is paid by the Client, where applicable, AgileAbility will begin providing the Services.
- 2.5. The Client understands that AgileAbility will require certain information, equipment or action from the Client and/or its contracted third-party service providers in order to properly render the Services. Failure or delay by the Client in providing this action or information will lead to delays in provision of the Services, for which AgileAbility will not be liable.
- 2.6. AgileAbility shall use all reasonable endeavours to meet any performance dates agreed to between the Parties in writing but any such dates shall be estimates only and time shall not be of the essence for the provision of the Services.

3. PRESENTATION OF THE DELIVERABLES

- 3.1. Prior to the final Deliverables being delivered to the Client, AgileAbility will provide the Client with an opportunity to review the appearance and content of the Deliverables during multiple instances throughout the design phase and once the overall development of the Deliverables is completed prior to the Deliverables being published live, including a review on the Client’s server. For each such presentation by AgileAbility, the Client will provide written feedback (“**change request**”) and thereafter AgileAbility will alter the preliminary versions of the Deliverables based on the change request within a reasonable timeframe of not more than 5 (five) working days from the receipt of such change request (unless otherwise advised in writing by AgileAbility). Where the Services involve website development, upon delivery, the Client shall have a period of 15 (fifteen) Business Days (the “**Testing Period**”) to test the website thoroughly. For the purposes of this clause 3.1, “testing” shall be deemed to include (but not necessarily be limited to):
 - 3.1.1. testing the functionality of all code on each individual page of the website;

- 3.1.2. checking the integrity of all links;
 - 3.1.3. checking animated or other video content for errors;
 - 3.1.4. testing the functionality of all interactive features; and
 - 3.1.5. testing the website on all mainstream web browsers.
- 3.2. All change requests must be deemed, in AgileAbility's sole and unfettered discretion, to fall within the initial scope of work as set out in the Quotation Order Form. Should the Client seek to introduce aspects or features in addition to those set forth in the Quotation Order Form, AgileAbility shall be entitled to amend the Quotation Order Form, or to issue a new Quotation Order Form for such additional aspects or features.
- 3.3. A presentation of the preliminary Deliverables created by AgileAbility will be considered accepted and completed if the Client, following receipt of the presentation, has not submitted any change requests within a period of 10 (ten) days from the date upon which the preliminary Deliverables are presented to the Client.
- 3.4. Should the Client submit a change request after the final presentation, AgileAbility may, in its sole discretion, charge an additional fee to the Service Fee. The additional fee will be communicated to the Client in advance.

4. FEES AND PAYMENT TERMS

- 4.1. AgileAbility will charge a fee for the Services. This fee, including any necessary disbursements or additional costs as detailed in the Quotation Order Form, is detailed in the Quotation Order Form and subsequent related invoice/s ("**Service Fee**"). Where the Service Fee is described as an estimate, it shall be based on a good-faith assessment of the number of hours required to provide the Services. Whilst every effort is made to ensure that costing estimates are accurate, the Client acknowledges that this is an estimate only and the Services shall be invoiced in accordance with the actual number of hours spent thereon.
- 4.2. The Service Fee does not include any import/export fees, collection/release charges, international taxes, licensing fees or other incidental fees which may arise through AgileAbility's provision of the Services for the Deliverables. These additional costs will be for the Client's account, and may include (without limitation) such items as special fonts, third party plugins, licences, hosting, server-side applications, clip art, "back-end" applications, music, stock images, or any other components, products or rights. All additional costs shall require the Client's prior approval before they are incurred.
- 4.3. Invoices will reflect the Service Fee and any additional disbursements or costs, inclusive of Value Added Tax, where applicable.
- 4.4. Invoices will be paid free of exchange, bank fees or set off, by the Client into AgileAbility's bank account nominated in writing for that purpose, or as displayed on the Quotation Order Form and/or an invoice.
- 4.5. Once the Quotation Order Form has been accepted by the Client, the Client will pay AgileAbility as follows (unless the Client has agreed otherwise with AgileAbility in writing):
 - 4.5.1. 50% (fifty percent) of the Service Fee will be paid to AgileAbility upon acceptance of the Quotation Order Form by the Client ("**the Deposit**");
 - 4.5.2. Any tranches, fees or payments agreed upon during the execution of the project/work shall be paid on the agreed-upon due dates thereof; and
 - 4.5.3. the remainder of the Service Fee and any additional costs or disbursements necessary for provision of the Services will be paid on presentation of the final Deliverables, whereafter the Deliverables created out of the Services will be published live.

- 4.6. The Client shall be liable for any transfer or bank charges applicable to payment of the Service Fee. Where payments are made in foreign currency, the payment will be made in the foreign currency of AgileAbility's domestic bank.
- 4.7. AgileAbility reserves the right to suspend the Services in its sole discretion should any payment be delayed.
- 4.8. Should an invoice remain unpaid for more than 30 (Thirty) calendar days, interest will be charged on any outstanding amounts at a rate equal to the Bank of England base rate plus 6% (six percent) per annum calculated from the due date of the payment to the date of payment in full (both days inclusive), compounded monthly, in arrears. The Client undertakes to pay any such interest along with the Service Fee, where necessary.
- 4.9. The Client acknowledges and agrees that it is not a valid reason to withhold payment of the Service Fee due to the Client not being paid by a third party, and accordingly, the Client will pay the Service Fee timeously, regardless of whether it has been paid by a third party or not.

5. PROVISIONS PERTAINING TO THE WEBSITE CREATED OUT OF THE SERVICES

Turnaround Time and Content Control

- 5.1. AgileAbility will make all commercially-reasonable efforts to make the Client's website created out of the provision of the Services available to be published within the timeframe agreed with the Client, which timeframe commences from the date upon which AgileAbility receives the initial payment as set forth in clause 4 above.
- 5.2. The Client shall nominate a single individual as the primary contact person with such decision-making power as will facilitate the provision of the Services by AgileAbility in the most expedient manner possible.

Website Content

- 5.3. During the provision of the Services, AgileAbility shall require the Client to provide website content, text, images, video, and/or sound files, as may be necessary ("**the Website Content**").
- 5.4. The Client shall provide AgileAbility with the Website Content in advance of the commencement of the Services, or as soon as reasonably possible thereafter. Clause 2.4 above shall apply in all instances in which AgileAbility is unable to make progress on and/or complete the Services due to a failure by the Client to provide the Website Content.
- 5.5. The Client shall provide all text content as a Microsoft Word, email (or similar document), or a Google Docs document, with the pages in such document representing the content of the relevant page on the Client's website. Such pages should have the same titles as the agreed website pages. Please contact AgileAbility if clarification is required.
- 5.6. Unless otherwise specified in the Quotation Order Form, these Terms assume that any text will be provided by the Client in electronic format (text files delivered on disk or via e-mail or File Transfer Protocol) and that all photographs and other graphics will be provided physically in high quality print suitable for scanning or electronically in .gif, .jpeg, .png or .tiff format. Although every reasonable attempt shall be made by AgileAbility to return to the Client any images or printed material provided for use in creation of the Client's website, such return cannot be guaranteed.
- 5.7. Should the provision of the Services require AgileAbility to perform design work, the parties shall prepare and agree upon a detailed project specification ("**project specification**"), which shall set out in full the concept, design, and work that is required by the Client and, where such work involves website development and design:
 - 5.7.1. AgileAbility agrees to create, develop, and deliver the graphical, technical and navigational design, and the web pages in a consistent style, look and feel and as described in the project specification; and

- 5.7.2. The website shall be delivered to the Client via upload using File Transfer Protocol to a hosting server, subject to clause 6 below.

Web Browsers

- 5.8. AgileAbility websites are designed to work with the most popular current internet browsers, which include Internet Explorer/Microsoft Edge, Google Chrome, and Safari.
- 5.9. While AgileAbility shall make every effort to ensure that websites are designed to be viewed by the majority of visitors, AgileAbility does not guarantee correct functionality with all browser software across operating systems dating back further than a period of 5 (five) years prior to the commencement of the Services.
- 5.10. AgileAbility shall not be liable in any manner whatsoever for web pages that do not display correctly in new versions of internet browsers released subsequent to the release of the website created out of the Services. AgileAbility accordingly reserves the right to quote for any work required to change the website design or code in order to work with updated internet browser software.

Search Engine Optimisation (“SEO”)

- 5.11. Where the Services involve SEO, the Client understands and acknowledges the following:
- 5.11.1. the times for websites to appear on search engine listings vary and AgileAbility can thus not guarantee that the Client's website will appear immediately on the designated search engines or that its position will change immediately from that which it held prior to the Services being performed;
- 5.11.2. AgileAbility cannot control search engines and cannot provide any guarantee that any of the designated search engines will not change their policies or functionality in such a way that will have a detrimental effect on the ranking of the Client's website following the completion of the Services and AgileAbility reserves the right to make changes to the Services as a result of the same;
- 5.11.3. AgileAbility accepts no responsibility for any detrimental effect on the Client's website's search engine rankings which results from any activity of the Client or any third party including, but not limited to, alterations to the Client's website;
- 5.11.4. AgileAbility makes no guarantee that the Services will result in the Client's website appearing in the top 10 search results on the designated search engines, shall not be responsible for URLs dropped or excluded by a search engine for any reason, and does not guarantee the Services performed will procure a minimum number of views, position or frequency in searches on relevant words or otherwise, a certain volume of traffic, number of clicks, registrations, purchases or that any other specific result will be achieved; and
- 5.11.5. regular, fresh, unique content added to the Client's website will help to improve the stability of rankings within search engines and failure to add such content is likely to lessen the impact of the Services.

Access Requirements

- 5.12. Should the website created for the Client by AgileAbility through the provision of the Services be required to be installed on a third-party server, the Client shall ensure at all times that AgileAbility is provided with temporary read/write access to the Client's storage directories which must be accessible by File Transfer Protocol. Depending on the specific nature of the project, other resources may also need to be configured on the server.

- 5.13. Unless otherwise agreed between the parties, the Client shall be exclusively responsible for implementing any website optimisation changes recommended by AgileAbility and, where required by AgileAbility, the Client shall allow AgileAbility use of the site's File Transfer Protocol or content management system's username and password in order to gain access to add in keywords.

Post-placement Alterations

- 5.14. AgileAbility shall provide the Client with access to a content management system.
- 5.15. AgileAbility cannot accept any liability or responsibility whatsoever for any alterations (whether in the form of additions, modifications, or otherwise) to the Client's website by a third party or the Client once installed.

6. HOSTING

- 6.1. Hosting is provided by a third-party hosting service as recommended by AgileAbility, WPEngine ("**the hosting provider**").
- 6.2. The Client shall be liable and responsible for maintaining subscription costs directly with the hosting provider according to such hosting provider's terms and conditions, unless the Client chooses to host its website with AgileAbility. In such an event:
- 6.2.1. such hosting shall be provided through AgileAbility's own account with the hosting provider;
- 6.2.2. the Client shall be charged for subscription costs/hosting fees on an annual basis, and payment shall be made in this regard via a Direct Debit Mandate which the client will be requested to sign. The Client shall also be able to make payment in this regard via the online form by debit or credit card, and such payment shall automatically be renewed annually unless the Client instructs AgileAbility otherwise in writing. In the event that the payment details provided by the Client are incorrect or become outdated, the Client shall be provided with a period of 10 (ten) business days within which to resolve the payment, or else AgileAbility shall be entitled to remove the website from their hosting provider.
- 6.3. The hosting service package required for the website created by AgileAbility out of the Services shall be recommended by AgileAbility.
- 6.4. The Client understands and agrees that any issues in maintaining the Client's annual subscriptions with the hosting provider shall not be the responsibility of AgileAbility, and further that the failure to maintain the regular payment of hosting fees may result in the Client's website not being published live.
- 6.5. The Client accordingly indemnifies AgileAbility from and against any damages, loss of income, or any other loss of a pecuniary nature incurred by the Client resulting from the failure to pay the hosting provider.

7. SECURITY AND WEBSITE MAINTENANCE

It is specifically provided that website security and maintenance services are not included in the Services. Should the Client require any such security and/or maintenance services, the Client shall advise AgileAbility thereof. AgileAbility shall thereafter provide the Client with a quotation in relation to such services.

8. MARKETING

Where the Services involve social media marketing, the Client has informed AgileAbility of the social media platforms on which it wishes to establish an active presence and such platforms have been specified in writing to AgileAbility. AgileAbility shall ensure that regular activity takes place on all of such platforms in the manner agreed between the parties. Where requested by AgileAbility, the Client shall provide its access credentials for such social media platforms in order for AgileAbility to provide the Services.

9. VIDEO PRODUCTION

- 9.1. Where the Services involve video production, the parties agree to meet from time to time to consult in good faith with each other over the editorial content and artistic direction of the video provided that the Client shall, in its absolute discretion but with full discussion with AgileAbility and giving good faith consideration to AgileAbility's views as a professional production company, have final editorial and artistic control over the video. The Client authorises AgileAbility to insert credit as the producer of the video on the end credits of the video, with its name and web address printed on all hard copies of the video and included alongside all online versions of the video.
- 9.2. The Client shall be provided with clearly-defined opportunities to review certain phases of the video production process. Once a phase has been marked as final, the Client shall not be entitled to request changes to any subsequent production phase.
- 9.3. Upon presentation of the first draft edit of a video created out of the Services, the Client shall be entitled to request certain editorial changes relating to the manner in which the clips in the video are edited, but shall not be entitled to request changes that would require AgileAbility to re-shoot, or re-record any part of the materials, or that would require an amount of editing beyond the initial quoted scope of work.

10. THIRD PARTY SUBCONTRACTORS

- 10.1. AgileAbility shall be entitled to utilise sub-contractors for any of the rights or obligations contained in these Terms, provided that such sub-contractors are bound to the same standard of service as AgileAbility. AgileAbility will be responsible for the conduct of its chosen sub-contractors.
- 10.2. The Client shall not be entitled to contact any of AgileAbility's chosen sub-contractors, and any engagement with such sub-contractors shall be done through AgileAbility.

11. NON-SOLICITATION

The Client agrees that it will not, without the prior written consent of the other Party, whether directly or indirectly, during the provision of the Services or for a period of 12 (twelve) months from the termination of this Agreement directly or indirectly canvas with a view to offering or providing employment to, offer to contract with or entice to leave any employee of or contractor to AgileAbility, or solicit, entice, induce or encourage an existing customer of AgileAbility to transfer or remove custom from AgileAbility.

12. CANCELLATION OF THE SERVICES

- 12.1. Should the Client wish to cancel the Services, the following will occur:
 - 12.1.1. unless otherwise provided, the Client must give AgileAbility ten (10) calendar days' written notice of its intention to cancel the Services;
 - 12.1.2. where the Services are provided on a retainer basis, the Client must give AgileAbility thirty (30) calendar days' written notice of its intention to cancel the Services;
 - 12.1.3. AgileAbility shall provide the Client with a final invoice which will cover all expenses, disbursements or Services already incurred or provided by AgileAbility prior to the date of termination. The Client understands that the final invoice will include any reasonable loss AgileAbility has suffered from cancellation with its third-party suppliers or from the cancellation of the Services generally;
 - 12.1.4. AgileAbility will firstly use the Deposit to set off the final invoice. In the event that there is an insufficient amount to cover the final invoice in the Deposit, the Client will be liable to pay the difference to AgileAbility within 7 (seven) calendar days of receiving an invoice; and
 - 12.1.5. the parties will hand over to the other party any document, film, storyboard, hard-drives, equipment or confidential information belonging to that party.

- 12.1.6. Should the Client advance or postpone the Production Schedule for any reason, including bad weather or availability of location, such advancement or postponement must be carried out at a time convenient to AgileAbility.

13. OWNERSHIP OF THE DELIVERABLES

- 13.1. All ownership and copyright in the final presentation of the Deliverables created out of the Services will remain AgileAbility's property until the Service Fee has been paid in full. Upon full and final payment being made by the Client, AgileAbility shall assign ownership of the Deliverables to the Client. AgileAbility reserves the right to withhold or revoke any permission given to the Client to use the Deliverables in the event that the Service Fee is not paid in full.
- 13.2. The Client will have no rights, title or interest to any of the contact details, information or database of contacts which AgileAbility utilizes in providing the Services. AgileAbility's database of contacts, media and suppliers will at all times remain the intellectual property of AgileAbility. Passing on these details will be at the discretion of AgileAbility, unless previously agreed.
- 13.3. Unless otherwise agreed between the parties, AgileAbility shall supply to the Client the object and source code of the Deliverables upon payment in full by the Client of the Service Fee and any other costs applicable to the provision of the Services. Where the Client requires the AgileAbility to provide training, support and maintenance in relation to the Software, both parties shall enter into a separate support and maintenance agreement, the terms of which shall be agreed between the parties.

14. CREDIT FOR THE SERVICES

- 14.1. AgileAbility reserves the right, subject to the Client's prior written approval, to publish any case studies, performance metrics, or materials involved in the creation of the website through the provision of the Services.
- 14.2. A link to the AgileAbility website or contact details will be published in the footer of the website created out of the Services.

15. INDEMNITY AND LIABILITY

- 15.1. Each party agrees to indemnify and hold the other harmless from and against any and all actions, claims, demands, proceedings or judgments (collectively "**claims**") and any and all losses, liabilities, damages, costs, charges and expenses (collectively "**losses**") of whatever nature and in whichever jurisdiction, which may be instituted, made or alleged against, or are suffered or incurred by a party relating to its own breach of obligations or warranties under this Agreement.
- 15.2. The Client specifically agrees to indemnify AgileAbility, its employees, sub-contractors and/or agents, and hold them harmless from and against any claims and/or losses of whatever nature and in whichever jurisdiction, which may be instituted, made or alleged against, or are suffered or incurred by the Client as a result of:
 - 15.2.1. inaccuracy;
 - 15.2.2. omission;
 - 15.2.3. delay or error (whether as a result of negligence or any other cause);
 - 15.2.4. loss of or damage to artwork/photos belonging to the Client (immaterial of whether such loss or damage occurred as a result of negligence).
- 15.3. In any event, the entire liability of AgileAbility to the Client in respect of any claims or losses whatsoever or breach of this Agreement, whether arising out of negligence or otherwise, shall be limited to the Service Fees paid by the Client to AgileAbility in relation to the project or instruction under which the Services were provided.

16. BREACH

- 16.1. Either party (“**the innocent party**”) shall have the right, at its election, to terminate this Agreement forthwith by notice in writing to the other party (“**the breaching party**”) in the event that:
 - 16.1.1. on written notice to that effect by the innocent party should the breaching party commit any breach or permit the commission of any breach of any material obligation or warranty contained in this Agreement and, in respect of such a breach capable of remedy, fail to remedy that breach within 5 (five) Business Days after the giving of written notice to that effect by the innocent party to the breaching party; or
 - 16.1.2. the breaching party repeatedly breaches any of the terms and/or conditions of this Agreement in such a manner as to justify the innocent party in holding that the breaching party’s conduct is inconsistent with the intention or ability of the breaching party to carry out the provisions of this Agreement.
- 16.2. In the event of cancellation of this Agreement in the circumstances contemplated in clause 13.1, written notice of any such cancellation shall be given and such cancellation shall take effect on the giving of such notice.
- 16.3. The cancellation of this Agreement or exercising of any right conferred by this clause 13 shall be without prejudice to any claims hereunder then accrued or to any further or other rights or remedies of either party, whether under this Agreement or otherwise in law, and whether for damages or otherwise.

17. FORCE MAJEURE

If either party is prevented, whether in whole or in part, or delayed from performing any of its duties, functions or obligations under this Agreement, whether timeously or at all, due to an act of god (which for the purposes hereof shall mean war, political riots, civil commotions, legal prohibitions or restrictions, electrical load-shedding or surges, fire, floods, storms, epidemic, pandemic, widespread disease, earthquakes or other similar natural disasters), then such failure shall not constitute a breach under this Agreement, and the obligation to perform shall be suspended to the extent and during the continuance of such prevention provided that the parties shall use their reasonable commercial endeavours to minimise any delay occasioned thereby.

1. DATA PROCESSING

- 1.1. The parties understand and agree that they may, during the term of this Agreement, operate as a “processor” of personal information, as defined in the United Kingdom’s *General Data Protection Regulation* made in terms of the Data Protection Act 2018 (“**UK GDPR**”), and the EU’s *General Data Protection Regulation, 2017* (“**GDPR**”) respectively.
- 1.2. Accordingly, the parties warrant that they shall adhere to all applicable duties and obligations of a “processor” as defined and required under the GDPR and the UK GDPR, as applicable, when processing any personal information derived from the other party and/or its data subjects.
- 1.3. Further, both parties expressly indemnify the other party against any third-party claims which may be brought against either party for the party’s failure to adhere to their duties as prescribed under the GDPR and the UK GDPR related to their role as either or both the relevant data controller and/or processor.
- 1.4. The Client also aware that AgileAbility is not necessarily the “Data Controller”, as defined by the GDPR and the UK GDPR, when processing the personal data of its customers or clients, and as such, the Client may be required to engage a third party to ensure that its duties under the GDPR and the UK GDPR are satisfied.
- 1.5. Should the parties have any additional particular terms and conditions relating to how exactly each party must process personal information provided to it by the other party, such additional conditions of processing must be contained in a distinct Data Processing Agreement between the parties.

- 1.6. The parties also warrant to and in favour of the other party that they have no criminal convictions or judgments recorded against them which relates to crimes relating to fraud, unlawful use of personal information or any crime related to illegal use or processing of personal information in any way,
- 1.7. The Client also understands and agrees that for data continuity and risk-mitigation purposes, should this agreement be terminated for any reason, and unless otherwise provided for in another data processing agreement between them and AgileAbility, AgileAbility will immediately cease all processing of personal data provided to them by the Client, as well as permanently delete/destroy any personal data of the Company's on/within their systems. To assist each other in this process, the Client will provide AgileAbility with whatever information or tools are needed in order to action this destruction as required.
- 1.8. Any data provided by the Client to AgileAbility shall be dealt with in accordance with AgileAbility's privacy policy.

2. CONFIDENTIALITY

- 2.1. For the purposes of this clause, "**Confidential Information**" means any and all information that is disclosed by one party to the other party and that relates to the parties' business relationship hereunder, including, but not limited to, information relating to the business methods, finances, systems, proprietary interests, marketing plans and any and all information exchanged between the parties pursuant to this Agreement.
- 2.2. Unless otherwise agreed to in advance, in writing, or except as expressly permitted by this Agreement, the parties will not, except as required by law or court order, use Confidential Information belonging to the other party or disclose any Confidential Information to any third party.
- 2.3. The parties shall use the same degree of care to avoid disclosure of the other party's Confidential Information as that party employs with respect to its own Confidential Information of like importance, but not less than a reasonable degree of care.
- 2.4. Upon the termination or expiration of this Agreement for any reason, or upon the other party's earlier request, each party will deliver to the other party all of the Confidential Information in tangible form that the party may have in its possession or control which belongs to the other party and provide a warranty that all other Confidential Information has been destroyed.

3. DISPUTE RESOLUTION

- 3.1. Should any dispute or difference arise between the parties in relation to this Agreement, the parties shall meet within 2 (two) Business Days of such notice and negotiate in good faith to resolve such dispute.
- 3.2. Should the parties fail to resolve such dispute or difference in the aforesaid manner or within such further period as the parties may agree to during their negotiation, either party shall be entitled to give notice of arbitration, provided that such notice shall not be given within 7 (seven) Business Days from the date that the parties first met as contemplated in clause 17.1 above.
- 3.3. The arbitration shall be held in accordance with the Commercial Arbitration Rules of Chartered Institute of Arbitrators ("**CI Arb**"), by an arbitrator agreed upon between the parties, or, failing agreement within 7 (seven) Business Days, appointed by CI Arb.
- 3.4. Unless otherwise agreed by the parties in writing the arbitration shall be held in London or Surrey in the United Kingdom, or such other place as the parties may agree in writing. It is specifically provided that in order to accommodate the strictures created by the Covid-19 pandemic and the government-instituted lockdown in light thereof, and further to ensure the health of the parties and their representatives, the parties shall be entitled to hold the arbitration contemplated in this clause remotely via the internet on any platform that the parties may agree to in writing.

- 3.5. The parties both agree that in no circumstance will either party publicize the dispute on any public platform, including social media platforms. The parties understand that any publicity of this nature can cause serious damage to the other party, which damage may result in a financial claim.

4. GENERAL

- 4.1. Survival of Rights, Duties and Obligations: Termination of this Agreement for any cause whatsoever shall not release either party from any liability which at the time of termination has already accrued to the other or which thereafter may accrue in respect of any act or omission prior to such termination.
- 4.2. Entire agreement and Variation: No alteration, consensual cancellation, variation of, or addition to this Agreement shall be of any force or effect unless reduced to writing and signed by both parties. This Agreement contains the entire agreement between the parties and neither party shall be bound by any undertakings, representations, warranties, promises or the like not recorded herein.
- 4.3. Counterparts: This Agreement may be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument.
- 4.4. Indulgences: No indulgence, leniency or extension of time which the Client may grant or show to AgileAbility shall operate as an estoppel or in any way prejudice the grantor or preclude the Client from exercising any of its rights in the future.
- 4.5. Governing law: This Agreement shall be governed by and interpreted in accordance with the law of England and Wales. All disputes, actions and other matters in connection with this Agreement shall be determined in accordance with such law.
- 4.6. Invalidity: Any provision of this agreement which is held invalid or unenforceable in any jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions hereof, and any such invalidity or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
- 4.7. Severability: Each undertaking in this Agreement shall be construed as a separate undertaking and if one or more of the undertakings contained in this Agreement is found to be unenforceable or in any way unreasonable the remaining undertakings shall continue to bind the parties. To the extent possible in any jurisdiction to which this Agreement may apply or in which this Agreement may be enforced, if any undertaking contained in this Agreement is found to be void but would be valid if the period of application thereof were reduced or if some part of the undertaking were deleted, the undertaking in question shall apply with such modification as may be necessary to make it valid and effective.
- 17.1. Cumulative Rights and Remedies: The rights and remedies of the parties under this Agreement are cumulative and in addition to any rights and remedies provided by law.