

TERMS & CONDITIONS

In these conditions, unless the context requires otherwise.

"Charges" means the charges as set out in the Quotation and confirmed by the Order, or Loop Digital's published price list or tariff structure in force from time to time.

"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.

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

"Contract" means the contract between Loop Digital and the Customer for the supply of Services in accordance with these Conditions.

"Customer" means the company, firm, body or person purchasing the Services from Loop Digital.

"Customer Content/Data" means text, graphics, photographs, sounds, information, data, music, video, film or any other copyright work publicly available on the Website or provided for publication on the Website either by the Customer or any other third party (excluding Loop Digital) commissioned by the Customer, together with all User Generated Content and information regarding Users (such as for example, the number of page impressions, users email addresses or other information posted by Users or depicted by the Website about Users).

"Loop Digital" means Loop Digital Marketing Ltd (Company number 09284217) whose registered office is at 32 Duncan Close, Moulton Park, Northampton, NN3 6WL.

"Data Protection Legislation" means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

"Default" means any breach of the obligations of either party (including visual and textual) published or otherwise made available (directly or indirectly) on the internet via the Website.

"Domain Name" means the name registered with an Internet Registration Authority used as part of the customer's URL.

"Information" means information in any form (including visual and textual) published or otherwise made available (directly or indirectly) on the Internet via the Website.

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

"Image Rights" means any person's name, voice, biography, image, slogan, logo or signature.

"Invoices" means invoices raised by Loop Digital for Services provided pursuant to a Contract.

"Ongoing Services" means Web Hosting, Search Engine Optimisation, Social Media Management, Reputation Management, Email Marketing, PPC or other services offered by Loop Digital which impose a monthly payment.

"Order" means a purchase order in respect of the Services requested by the Customer and submitted to Loop Digital together with all documents referred to in it.

"PPC" means Pay Per Click services offered by Loop Digital.

"Quotation" means a quotation for an agreed price of work (incorporating these Conditions) provided by Loop Digital to the Customer in respect of the Services.

"Server" means Loop Digital's internet server.

"Services" means the services which are the subject matter of a Contract, being the work and/or services or any of them to be performed by Loop Digital for the Customer pursuant to the Order including without limitation, the Ongoing Services.

"Specification" means the description or specification of the Services provided by Loop Digital to the Customer.

"Standard Form" means Loop Digital's standard form of Order.

"UK Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

"User" means any member of the public accessing the Website via the internet or by any other means.

"User Generated Content" means all such material posted by users on the website.

"URL" means a uniform resource locator.

"Web Services" means Web Services offered by Loop Digital.

"Website" means the website developed by Loop Digital for the customer described in the Specification.

1. GENERAL

- 1.1 A quotation shall not be binding on Loop Digital and the Contract will only come into force upon acceptance by Loop Digital of the Order by signing or counter signing and dating of the Order and returning it to the Customer or the issue by Loop Digital of an order acknowledgement.
- 1.2 The Contract will be subject to these conditions. All terms and conditions appearing or referred to in the Order or otherwise stipulated by the Customer shall have no effect, unless such Order is in the Standard Form. Any variation to the Contract must be confirmed in writing by Loop Digital.
- 1.3 Quotations submitted by Loop Digital shall remain open for acceptance by the Customer for a period of 14 (fourteen) days from the date of the Quotation, unless the Quotation specifies some other period, or the Quotation is withdrawn by Loop Digital.
- 1.4 These conditions shall, to the extent applicable apply to goods and products in the same way as they apply to Services.
- 1.5 Unless otherwise agreed by Loop Digital, the Customer acknowledges that the minimum length of any Ongoing Services purchased will be 12 months from the commencement of the specific Service. The Ongoing Services may be terminated on 3 months written notice by either party in accordance with clause 14.

2. PRICES

- 2.1 Where the Services are sold by reference to Loop Digital's published price list or tariff structure, the price payable for the Services shall be the ruling price as published in the price list or tariff structure current at the date of purchase.
- 2.2 In other cases, the price for the Services shall, subject to clause 1.3 above, be that stated on the relevant Quotation and confirmed in the Order.
- 2.3 Loop Digital shall (if applicable) add to the price of the Services, and the Customer shall pay an amount equal to any VAT and any other tax or duty applicable from time to time to the sale or supply of such Services.

- 2.4 Any price changes to Ongoing Services will take effect from the 1st day of the month and the Customer will be notified in writing at least 7 (seven) days before any price change takes effect.

3. TERMS OF PAYMENT

- 3.1 Prices quoted are net and in pounds sterling.
- 3.2 As consideration for the performance of Loop Digital's obligations under the Contract the Customer shall pay all sums owing pursuant to a Contract to Loop Digital.
- 3.3 For website design services only, the Customer shall at the time of submission of an Order to Loop Digital, pay to Loop Digital a non-refundable deposit of 30% of the value shown on the Order attributable to the website design services ("Deposit").
- 3.4 Loop Digital shall invoice the Customer:
 - 3.4.1 for website design services immediately on completion of the Website.
 - 3.4.2 for Ongoing Services on the fifteenth day of each calendar month for Ongoing services provided to the Customer during the following month and the Customer shall make payment to Loop Digital in advance of the month start.
- 3.5 Unless otherwise agreed in writing by Loop Digital, payment of Invoices must be received by Loop Digital from the Customer within 14 days of the date of the Invoice ("Due Date"). The Customer shall remit payment to Loop Digital in accordance with Clause 3.7 below.
- 3.6 Failure to make payment by the Due Date may result in suspension/disconnection of any Service and/or Ongoing Service.
- 3.7 The Customer shall make all payments due to Loop Digital by arranged Direct Debit, telegraphic or electronic transfer direct to Loop Digital's following nominated bank account:

Account Name:	Loop Digital Marketing Ltd
Bank Name:	HSBC Bank
Account Number:	43921557
Sort Code:	40-35-04
- 3.8 If the Customer fails to make a payment due to Loop Digital under the Contract by the due date, then, without limiting Loop Digital's remedies under clause 14, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 3.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 3.9 All amounts due under the Contract shall be paid in full in pounds sterling without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

4. WEBSITE DESIGN

- 4.1 Where required by the Order, Loop Digital shall provide Website Design services. Loop Digital agrees to develop the relevant Website in accordance with the Specification as set out in the order.
- 4.2 The Customer shall provide to Loop Digital in a timely and suitable manner and in a format required by Loop Digital, such information as may be reasonably necessary to enable Loop Digital to complete the Website in accordance with the specification, provided that the Customer shall not supply any information 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.
- 4.3 The Customer unconditionally guarantees that any elements of text, graphics or other artwork furnished to Loop Digital is owned by the Customer or that the Customer has permission from the rightful owner to use each of these elements, and will indemnify Loop Digital and hold harmless, protect and defend Loop Digital and its subcontractors from any claim or suit arising from the use of such elements furnished by the Customer.
- 4.4 Loop Digital shall convert the Information and/or Customer Content/Data into a display-ready format for the Website, to meet the Specification.
- 4.5 If the information and/or Customer Content/Data is not in a suitable digital format, Loop Digital will be at liberty to charge the Customer an additional charge for the conversion.
- 4.6 Loop Digital will change the initial homepage on one occasion following completion of the initial design but reserves the right to charge the Customer the sum of £295.00 plus VAT (two hundred and ninety-five pounds) per amendment thereafter.

5. CHANGES IN THE SPECIFICATION

Loop Digital may agree to carry out such changes to the web services template as the Customer reasonably requires, provided that the cost of such changes shall be in addition to the Charges and shall be borne by the Customer where the changes are required as a result of the Customer's desire to deviate from the Specification.

6. RESPONSIBILITY FOR APPROVING DESIGN

- 6.1 The Customer acknowledges and agrees that Loop Digital shall produce the website design based on the Specification.
- 6.2 It shall be the sole responsibility of the Customer (and not Loop Digital) to review and approve the content of the Website (including, without limitation, the spelling of names and addresses and the accuracy of telephone numbers) at the time of the completion of such Website by Loop Digital to the Customer for approval by the Customer.
- 6.3 Loop Digital shall have no liability to the Customer for any inaccuracies contained within the Website if and to the extent that the Customer has failed to review and/or approve (or require amendments (as the case may be)) the Website provided pursuant to the Contract.

7. SEARCH ENGINE OPTIMISATION SERVICES

- 7.1 Where specified in the Order, Loop Digital shall provide search engine optimisation services, which shall entail Loop Digital using its reasonable endeavours to improve the ranking of the Website in response to a search engine search, only in relation to the search engines known as "Google", "Yahoo" "DuckDuckGo" and "Bing".
- 7.2 Whilst Loop Digital will use reasonable endeavours to improve the position of the Customer's Website in the nominated Search Engine Results in response to a search request, Loop Digital does not warrant that this effort is in any way guaranteed.
- 7.3 Loop Digital shall have no liability to the Customer for any changes to the position of the Customer's Website in the nominated search engine results in response to a search and the Customer proceeds at its own risk in this regard.

8. WEB HOSTING SERVICES

- 8.1 Upon acceptance of the Website, Loop Digital will install the Website onto the Server in accordance with the Specification and provide a connection to the Internet via the Server ("**Hosting Service**").
- 8.2 The Customer shall be solely responsible for the accuracy, legality, currency and compliance of the Website information and User Generated Content and will be solely liable for false, misleading, inaccurate, or infringing information contained or referred to therein.
- 8.3 The Customer acknowledges and agrees that Loop Digital may be required by law to monitor the Website Content and traffic and if necessary give evidence of the same together with use of the login ID to support or defend any dispute or actionable cause or matter which arises in relation to the same.

- 8.4 Loop Digital does not warrant the Hosting Service or Server will be continuously available 24 x 7 x 365 but it will use its reasonable endeavours to keep downtime to a minimum.
- 8.5 Loop Digital may need to at times to temporarily suspend the Hosting Service for repair, maintenance or improvement of the Hosting Service and will give the Customer reasonable notice (as the case may be) as is reasonably practical in the circumstances, before doing so. Loop Digital will restore the Hosting Service as soon as reasonably possible thereafter.
- 8.6 The Customer accepts the Hosting Service and Server "AS IS" with any faults or failings and without any representation, warranty or guarantee whatsoever, express or implied, including without limitations any implied warranty of accuracy, completeness, quality, continuity of service, connectivity and fitness for a particular purpose.

9. WEBSITE SERVICES

- 9.1 Loop Digital is a reseller of Domain Names through Heart Internet. The registration of a Domain Name or hosting of a website on behalf of the customer is subject to the terms and conditions of these businesses on their individual websites.
- 9.2 Loop Digital accepts no liability for any financial loss resulting from a Domain Name not being renewed.
- 9.3 Loop Digital accepts no liability arising from any financial loss from any registered mailbox not being available.
- 9.4 A charge of £150.00 plus VAT (one hundred and fifty pounds) will be charged for any Domain Name transfer and the Customer hereby acknowledges that it will be liable for the same. A domain will only be transferred if such amount has been paid by the Customer to Loop Digital as well as any outstanding balance owed by the Customer to Loop Digital.
- 9.5 Loop Digital reserve to charge the Customer the sum of £250.00 plus VAT (two hundred and fifty pounds) should the Customer request a copy of its Website files and database only or alternatively if it wishes to move to a different hosting provider.

10. E-COMMERCE WEB SERVICES

- 10.1 Loop Digital supplies E-Commerce Services via WordPress and/or Shopify and other suppliers and the Customer is subject to the terms and conditions of such businesses on their respective individual websites. Loop Digital accepts no liability in this regard and the Customer should satisfy itself to the respective terms and conditions of such third-party businesses.
- 10.2 Loop Digital will accept no liability or financial loss resulting from the use of any E-Commerce website and the Customer proceeds at its own risk.

11. DELIVERY AND COMPLETION DATES

- 11.1 Loop Digital undertakes to use its reasonable endeavours to provide the completed Services to the Customer within the time frame stipulated in the Order.
- 11.2 The dates and timeframes for carrying out the Services and delivery of any Website are approximate only and, unless otherwise expressly stated time is not of the essence for delivery or performance.
- 11.3 Loop Digital will not be liable in any circumstances for the consequences of any delay in delivery or performance or failure or perform.
- 11.4 No delay shall entitle the Customer to reject any delivery or performance or any other Order from the Customer or to repudiate/ rescind the Contract or the Order.

12. CUSTOMER WARRANTIES AND RESPONSIBILITIES

- 12.1 The Customer warrants that:
- 12.1.1 It has the right to include and permits Loop Digital to include the information and the Customer Content/ Data on the email or has obtained the rights from third parties to do so.
- 12.1.2 It will not supply Loop Digital with, not upload to the website, post, email, or otherwise transmit (or allow to be transmitted) by the Website (or request that Loop Digital carries out any such upload, posting, email or transmission on the Customer's behalf), of any information or user Content that is;
- a) Unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, libellous, invasive of another's privacy, hateful or racially ethnically or otherwise objectionable;
 - b) Harmful to minors in any way;
 - c) In breach of any third-party right under any law or under a contractual or fiduciary relationship;
 - d) An infringement of any Intellectual Property Rights;
 - e) Unsolicited or unauthorised advertising, promotional material, "junk mail", "spam", "chain letters", "pyramid schemes", or any other form of solicitation;
 - f) Containing 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.
 - g) Intentionally or unintentionally a violation of any applicable law and/or regulation having the force of law;
 - h) Data which contravenes the United Kingdom Data Protection Legislation in any way.
- 12.1.3 It will comply with the Data Protection Act 1998 and any other data protection laws that may be applicable in the UK or EU.
- 12.2 The Customer accepts that Loop Digital is under no obligation to monitor or approve the Information and accepts that Loop Digital excludes all liability of any kind for all material comprising the Information.
- 12.3 The Customer accepts, and warrants should there be any delay on its own part either by inaction or deliberate means or fails to provide any required information which results in the website being held up for a period of twelve (12) months or more, then the total amount due will automatically become due and this payment will be made in accordance with clause 3.5. This will result in archiving of the whole project and a further fee of £500+ VAT will become due to reactivate the project.
- 12.4 The Customer acknowledges that Loop Digital's ability to provide the Services is dependent upon the full and timely co-operation of the Customer (which the Customer agrees to provide), as well as the accuracy and completeness of any information and data the Customer provides to Loop Digital. Accordingly, the Customer shall:
- (a) provide Loop Digital with access to, and use of, all information, data and documentation reasonably required by Loop Digital for the performance by Loop Digital of its obligations under this agreement; and
 - (b) The Customer shall be responsible for the accuracy and completeness of Customer Contact/ Data.

13. INTELLECTUAL PROPERTY AND LICENCE

- 13.1 Subject to the provisions of clauses 13.2 the Intellectual Property Rights in the Website and the Domain Name shall vest exclusively in Loop Digital. As such, Loop Digital shall be free to reproduce, use, disclose, display, exhibit, transmit, perform, create derivatives works and distribute such material unless specifically agreed otherwise. Further, Loop Digital shall be free to use any ideas, concepts, know how or techniques acquired in the construction of all services for any purpose whatsoever

included but not limited to developing, manufacturing and marketing products and any other items incorporating such information unless specifically agreed otherwise.

- 13.2 All rights, title and interests in and to the Intellectual Property Rights in the Information associated with the content of all services shall vest exclusively in the Customer.
- 13.3 The Customer acknowledges that any Intellectual Property Rights created, developed, subsisting or used by Loop Digital in or in connection with the provision of the Services shall be the sole property of Loop Digital. Nothing in this Agreement grants to the Customer any rights to sell or market the Specification to any third party.

14. TERMINATION

- 14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract by giving the other party 3 months' written notice on the expiry of the first anniversary of this agreement and not before. Termination of any Ongoing Services shall be in accordance with clause 1.5 and the remainder of the 12-month term plus 3-month notice period shall become immediately payable.
- 14.2 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:
- 14.2.1 the other party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 21 days of that party being notified in writing to do so;
 - 14.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - 14.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - 14.2.4 the other party's financial position deteriorates to such an extent that the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 14.3 Without affecting any other right or remedy available to it, Loop Digital may terminate the Contract with immediate effect by giving written notice to the Customer if:
- 14.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment; or
 - 14.3.2 there is a change of control of the Customer.
- 14.4 Without affecting any other right or remedy available to it, Loop Digital may suspend the supply of Services under the Contract or any other contract between the Customer and Loop Digital if the Customer fails to pay any amount due under the Contract on the due date for payment, the Customer becomes subject to any of the events listed in clause 14.2.2 to clause 14.2.4, or Loop Digital reasonably believes that the Customer is about to become subject to any of them.
- 14.5 On termination of the Contract:
- 14.5.1 the Customer shall immediately pay to Loop Digital all of Loop Digital's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Loop Digital shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - 14.5.2 the Customer shall return all of Loop Digital's Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Loop Digital may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 14.6 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 14.7 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

15. DATA PROTECTION

- 15.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 15 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 15 means (for so long as and to the extent that they apply to Loop Digital) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the Data Protection Legislation from time to time in force in the UK and any other law that applies in the UK.
- 15.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and Loop Digital is the processor.
- 15.3 Without prejudice to the generality of clause 15.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Loop Digital for the duration and purposes of the Contract.
- 15.4 Without prejudice to the generality of clause 15.1, Loop Digital shall, in relation to any personal data processed in connection with the performance by Loop Digital of its obligations under the Contract:
- a) process that personal data only on the documented written instructions of the Customer unless Loop Digital is required by Applicable Laws to otherwise process that personal data. Where Loop Digital is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Loop Digital shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Loop Digital from so notifying the Customer;
 - b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to personal data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - d) not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

- i. the Customer or Loop Digital has provided appropriate safeguards in relation to the transfer;
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. Loop Digital complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - iv. Loop Digital complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data
 - e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - f) notify the Customer without undue delay on becoming aware of a personal data breach;
 - g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the personal data; and
 - h) maintain complete and accurate records and information to demonstrate its compliance with this clause 15.
- 15.5 The Customer consents to the Loop Digital appointing a third-party processor of Personal Data under the Contract.

16. INDEMNITY

- 16.1 The Customer shall indemnify Loop Digital against any loss, damage, cost or expense (which for the avoidance of doubt includes reasonable solicitor's costs and expenses) Loop Digital may suffer or incur as a result of:
- 16.1.1 any claim by any third party that the Customer's Content and/or Data infringes the Intellectual Property Right of a third party or is fraudulent, offensive, defamatory or causes annoyance, inconvenience or needless anxiety or constitutes unsolicited advertising or promotional material.
 - 16.1.2 Works carried out in accordance with the Customer's instruction in the hosting of the Website on the Server involving the infringement of any Intellectual Property Right (including but not limited to framing or linking to third parties' websites);
 - 16.1.3 any claim by a third party arising from the Customer's breach of the warranties under clause 12 above.
- 16.2 Loop Digital shall not be liable to the Customer for any loss or damage whatsoever or howsoever caused directly or indirectly in connection with the Contract, the Server, the connectivity to the Internet, the hosting, the Website, the Software, their use, application, support or otherwise, except to the extent which it is unlawful to exclude such liability.
- 16.3 The Customer shall indemnify Loop Digital against any loss, cost or expense incurred by Loop Digital arising from any act, omission or default of the Customer, its agents, or employees.
- 16.4 Nothing in this Agreement excludes or limits the liability of Loop Digital for fraudulent misrepresentation or for any death or personal injury caused by Loop Digital's negligence.
- 16.5 Loop Digital will not be liable to the Customer in contract, tort (including but not limited to negligence), misrepresentation or otherwise for any economic loss of any kind (including but not limited to loss of profit, business, contracts, revenue or anticipated savings), any damage to the Customer's reputation or goodwill or any other special, indirect or consequential loss (whatsoever and whosoever cause) which arise out of or in connection with a Contract.
- 16.6 The Customer acknowledges and agrees that Loop Digital's total liability in respect of the warranty provided under clause 12.3 shall be to re-performance of the Services or refund of the relevant purchase price.
- 16.7 Notwithstanding clause 16.4 above, the Customer acknowledges and agrees that Loop Digital's total liability in contract, tort (including but not limited to negligence), misrepresentation or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the amount paid by the Customer pursuant to the relevant Contract.
- 16.8 Neither party shall be liable for any failure in the performance of any of its obligations under this Agreement caused by factors beyond its reasonable control

GENERAL

17. FORCE MAJEURE

- 17.1 Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

18. CONFIDENTIALITY

- 18.1 Confidentiality.
- 18.1.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 18.1.2.
 - 18.1.2 Each party may disclose the other party's confidential information:
 - 18.1.3 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 18; and
 - 18.1.4 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
 - 18.1.5 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

19. ASSIGNMENT AND SUBCONTRACTING

- 19.1 Loop Digital may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.
- 19.2 The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Loop Digital.

20. ENTIRE AGREEMENT

- 20.1 The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 20.2 Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.
- 20.3 Nothing in this clause shall limit or exclude any liability for fraud.

21. VARIATION

- 21.1 Except as set out in these Conditions, no variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

22. WAIVER

- 22.1 A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

23. NOTICES

- 23.1 Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 23.2 Any notice shall be deemed to have been received:
- 23.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
 - 23.2.2 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
 - 23.2.3 Is sent by email and email receipt is confirmed by Loop Digital.
- 23.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

24. SEVERANCE

- 24.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

25. THIRD PARTY RIGHTS

- 25.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

26. LAW AND JURISDICTION

- 26.1 The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 26.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.