

# Service Level Agreement, Terms & Conditions

## Between Agitate Digital and Client

This Service Level Agreement will outline the terms on which we are appointed as your creative agency, providing the services as outlined from a date to be confirmed. It covers the services we will provide along with charges we will make to yourselves.

It is agreed as follows:-

In this Agreement the following words shall have the following meanings:-

'Agency' - Agitate Digital Ltd.  
Registered Office: Certius Professional Services, Bayside Business Centre, Unit 1 Sovereign Business Park, Willis Way, Poole, Dorset, United Kingdom, BH15 3TB

'Client' - X

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### 1. Appointment

The Client agrees to appoint the Agency as it's marketing agency for **Client**, to perform the services agreed.

Without prejudice to the above, this Agreement may be terminated immediately by either party giving written notice to the other if the other commits a material breach of this Agreement, which if the breach is capable of remedy, is not remedied within 14 days of being requested to do so in writing, or in the event of the other party going into liquidation or having a receiver or administrator appointed.

### 2. Agency Services

The Agency will provide the Client with a comprehensive service in areas covering; creative, development and marketing. Inclusive of the day-to-day running and forward planning of the account, communications through email and telephone.

## Internal Communication

The Client's verbal, signed or emailed approval of copy, layouts, creative and artwork will be sufficient authority for the Agency to purchase the agreed materials and prepare proofs, and the Client's, signed or emailed approval of proofs will be sufficient authority for the Agency to release such materials.

The Client's, signed or emailed approval of schedules and estimates will be sufficient authority for the Agency to make reservations and contracts for photography, copywriting and any other items.

In the event of the Client requesting in writing any cancellation or amendment to work in progress, the Agency will take reasonable steps to comply, provided that the Agency can do so within its contractual obligations to suppliers. In the event that this is not possible the Client agrees that it will reimburse the Agency for any charges or expenses to which the Agency is committed and to also pay the Agency's fees for such work in progress.

### 2.1 Agency Service Level

The Agency aims to be available for contact for standard project communication between the hours of 9am and 6pm.

The Agency will aim to be contactable outside the working day, via email or mobile phone for urgent communications.

### 2.2 Briefings / Scope

The briefings and scope of the work to be undertaken (as per clause 2) is confirmed within the proposal or subsequent scope document. Signing this SLA confirms that this is understood and that changes outside of this will be charged additionally based on the Agency's hourly rate. Where additional work surpasses £500, these changes would be agreed in writing with the Client before work commences.

### 2.3 Meetings

Subject to prior notice Agitate Digital will be available for meetings where Agitate Digital presence is required.

### 2.4 Deadlines

The project completion deadline will be agreed in advance with the client. In all circumstances, the Agency will aim to deliver work of the required standard on or before the time agreed.

The Client understands though that due to the unpredictable nature of development, issues and blockers may present themselves during the project that cause the deadline to be moved. The Agency will, in all cases, communicate these changes in advance to the Client.

Where an immediate turnaround is required by the Client, Agitate Digital will always aim but cannot guarantee to meet the requirements of the Client.

### 2.5 Quality Of Service

Agitate Digital undertakes that all services will be performed in a professional manner, consistent with industry standards reasonably applicable to such services. If the Client considers that a breach of this undertaking has occurred, and notifies the Agency in writing, then Agitate Digital will be required to urgently redress the situation, making the utmost efforts to make good any deficient work to bring it in line with the expected requirements.

### 2.6 Agency Account Personnel

Agency Director – Curtis Williams

### 2.7 Key Personnel Changes

Any additional Account Management team members will in no way result in any deficiency in service from the Agency to the Client. Any departing key personnel will be replaced by a candidate of reasonable experience and training, as agreed by the Client.

### 2.8 Agency Performance

The Client may choose to set the Agency specific targets upon which the Client will judge performance. Any target, and the metrics by which the target is measurable, should be agreed between the Agency and the Client before the commencement of a monitored service or activity.

### 3.1 Approval of Work

On completion of the design work, the Client will be notified and have the opportunity to review it (Reference clause 3.3).

The Client should notify The Agency, in writing, of any unsatisfactory points within 5 working days of receipt of such notification. Any of the work which has not been reported in writing to The Agency as unsatisfactory within the review period will be deemed to have been approved. If an extension of this 5 day window is required, this is acceptable up to

21 days with a written request.

The project process commences with planning and design. Development won't commence until the design stage is completed and approved by the client. Once designs have been approved, or deemed approved, work cannot subsequently be rejected, and the contract will be deemed to have been completed.

### **3.2 Rejected Work**

If the Client rejects the work within the review period, or will not approve subsequent work performed by The Agency to remedy any points reported by the Client as unsatisfactory, and The Agency considers that the Client is unreasonable in his repeated rejection of the work, the contract will be deemed to have expired and The Agency can take any legal measures to recover both payment for the completed work and reasonable expenses incurred in recovering payment.

### **3.3 Changes**

As per clause 2.2, the scope of the project is outlined in the proposal and agreed communications outside of this SLA. Additional requests and changes after the project has commenced are therefore not included and will be charged as extra.

Likewise, once designs have been approved, or deemed approved, they are final moving into the development stage. Further changes requested during development or after development during testing or client review stages are considered as changes to the scope of work and thus are also billable as extra.

Changes are possible and acceptable at any stage of the project but costing will be reviews and the Agency reserves the right to enforce additional charges for this.

### **3.4 Design Process**

Project design files will be provided via a prototyping platform (InVision or Figma) for review and feedback.

### **3.5 Project Testing**

The Website will go through a phase of quality assurance with the Agency - this phase will see that the development and responsiveness of the Website is, to a reasonable degree, in line with the approved designs.

The website will be tested on the top four current browsers: Chrome, Firefox, Ms Edge and Safari. Internet Explorer is a discontinued product from Microsoft that is no longer supported by Microsoft

and is therefore not supported for the development on any project or tested against unless otherwise stated. The Agency does not guarantee that the completed project will be 100% perfect on all available display sizes and resolutions due to the ever increasing number of devices and screen possibilities. However, the Agency will develop the website to be responsive, reviewing and testing all reasonable resolution sizes at the time of development including mobile devices, tablets and desktop machines. The Agency will resolve any issues reported in relation to responsive development free of charge for a period of 6 months after the completion of the project unless they relate to a new device size or resolution not on the mainstream market at the time of this contract.

### **3.6 Search Engine Listings**

Agitate Digital does not guarantee listings on Search Engines and the Client accepts that it is Search Engines and not Agitate Digital who determine whom they list and whom they will not. The Client further understands there is no guaranteed placement or ranking on the Search Engines and that a new website may never even appear on Search Engines at all. Agitate Digital does not control Search Engines' algorithms and huge shifts can appear daily, weekly and even hourly.

Any Search Engine Optimisation (SEO) with the project will be as per the proposal and agreed scope and not more. The Client understands that search engine optimisation is an ongoing marketing endeavour that sits outside a single project quote.

### **3.7 Website Loading Speed (Page Speed)**

With all website projects the Agency will take all measures reasonable within the project quote as outlined within the technical scope to ensure the website loads within a reasonable speed for the end user.

A 3 second loading speed is what will be aimed for with all pages. The Agency is unable to guarantee that long term, the website will maintain the performance achieved at the end of development due to factors outside of the Agency's control such as the Host, the traffic and the end users technical situation.

## **4. Fee's**

The Agency's fee's for the projects are outlined in the accompanying proposal and are based on the Agency's hourly rate. The Agency's fee's for ongoing and 'one-off' or 'ad-hoc' support will be based on tracked time and billed monthly based on an hourly rate of £50

Travel relating to sales or projects where face-to-face meetings are required may be charged additionally at a rate of 50 pence per mile.

## 5. Period

The contract will run from a date to be confirmed. This will allow for contract and performance adjustments. Each party will need to give a minimum of 1 month notice if the contract is to be terminated prematurely.

## 6. Terms of Payment

The Client agrees to pay the amounts due on the dates specified in the original order month end following month of invoice date unless otherwise specified. Quoted project work is staged to be 50% up front for each project and then 50% on final completion unless otherwise specified.

In the event that The Client does not pay The Agency, in accordance with the terms agreed on the order or in accordance with the usual terms offered to The Client, The Agency will issue one final demand for payment. Non-payment of the final demand within 7 days may result in The Agency taking legal action against The Client for recovery of all outstanding sums due.

## 7. VAT

All invoices are subject to VAT at 20%.

## 8. Copyright, intellectual property rights, design rights

Where the Agency conceives, creates and or designs new and/or original artistic design(s) for The Client, copyright, intellectual property rights, unregistered design rights and, if applicable registered design rights, will pass to the client upon payment. Any work created for the Client which is not paid for or any intellectual property rights in such work will belong to the Agency. Where The Agency is required by The Client to modify an existing artistic design for The Client, The Client warrants that it owns the copyright, intellectual property rights, unregistered design rights and, if applicable, registered design rights to the material and therefore has the right to provide The Agency with the material.

In the event that it subsequently transpires for whatever reason that the provision of such material is in breach of copyright, intellectual property rights, unregistered and/or registered design rights The Client accepts full responsibility for any such

infringement. The Agency does not accept any responsibility for any such infringement by The Client. By accepting these terms The Client agrees to taking sole responsibility for ensuring that it is not in breach of copyright, intellectual property rights and or design rights. In the event of the non-payment, the Agency retains copyright, intellectual property rights and design rights to all artistic designs it creates for The Client whether such designs are wholly original or the result of modification of existing designs provided by The Client without payment.

## 9. Legal Liability and Other Claims

Except as expressly stated in this Clause, The Agency shall have no liability to The Client for any loss or damage whatsoever arising from or in connection with the provision of the Services or for any claim made against The Client by any third party.

1. We will provide our services with reasonable care and skill. Our liability to you is limited to losses, damages, costs, and expenses caused by our negligence or wilful default.
2. We will not be liable if such losses, penalties, surcharges, interest or additional tax liabilities are due to the acts or omissions of any other person or due to the provision to us of incomplete, misleading or false information or if they are due to a failure to act on our advice or a failure to provide us with relevant information.
3. We will not be liable to you for any delay or failure to perform our obligations under this engagement letter if the delay or failure is caused by circumstances outside our reasonable control.

Without prejudice to the generality of this clause, The Agency shall have no liability for any losses or damages which may be suffered by the The Client whether the same are suffered directly or indirectly or are immediate or consequential which fall into the following categories:

1. Any indirect or consequential loss arising under or in relation to the Contract even though The Agency was aware of the circumstances in which such loss could arise;
2. Loss of profits; loss of anticipated savings; loss of business opportunity or goodwill;
3. Loss of data; and
4. Fraudulent clicks on any of The Client advertising managed by The Agency.

To the extent such liability is not excluded by the above and below, The Agency's total liability (whether in contract, tort (including negligence or otherwise)) under or in connection with the Contract or based on any claim for indemnity or contribution (including for damage to tangible property) or otherwise will not in any event exceed the total sum invoiced for the

Services. Other limitations of liability:

1. The Agency shall not be liable for downtimes, interference in the form of hacking, virus, disruptions, interruptions, faulty third-party software, search engines or websites on which a service is dependent or other deliveries from a third party. The Agency shall use its reasonable efforts to assist in remedial efforts if so requested by The Client.
2. The Agency will take reasonable steps to verify that research or other information it provides to the Client is complete and accurate but it is expressly understood that no warranties are given by the Agency to the Client regarding the accuracy of any information that it provides to the Client.
3. The Agency shall not be liable for any changes made without notice by The Client or a third party employed by The Client to domain names, websites, links, technical setup etc. and affecting the Services delivered by The Agency.
4. The Agency shall use all reasonable endeavours to deliver Services relating to search engine optimisation, and Google Analytics in accordance with the guidelines applicable to the relevant search engines. However, The Agency shall not be liable for delayed or non-conforming performance due to changes made to standard terms, assessment algorithms, search criteria, viewing policy, prices and campaign offers or other matters beyond The Agency's control and reserves the right to make changes to Services as a result of the same. In addition, The Agency shall not be liable for other changes or discontinuation of search engines.
5. The Agency shall not be liable for Services relating to search engine optimisation, link building, advertisements, banners or sponsorships leading to a minimum number of views, position or frequency in searches on relevant words or otherwise. In addition, The Agency shall not be liable for ensuring that such Services lead to a certain volume of traffic, number of clicks, registrations, purchases or the like.
6. The Agency shall not be responsible for URLs dropped or excluded by a search engine for any reason.
7. If The Client does not implement some or all of The Agency's recommendations, The Agency shall not bear any liability for any lack of success experienced by The Client relating to the Services.

Limitation of Third Party rights:

1. The advice and information we provide to you as part of our service is for your sole use and not for any third party to whom you may communicate it unless we have expressly agreed in the engagement letter that a specified third party may rely

on our work. We accept no responsibility to third parties, including any group company to whom the engagement letter is not addressed, for any advice, information or material produced as part of our work for you that you make available to them. A party to this agreement is the only person who has the right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

## **10. Data Protection**

Each Party agrees to comply and shall procure that its directors, employees, agents, consultants and subcontractors comply in all respects with the Data Protection Act 1998 ("DPA"), any regulations issued pursuant to the DPA and any guidance issued by the Information Commissioner or any other regulatory body.

Each Party shall indemnify other party against all or any losses, costs, claims, demands, damages, proceedings, expenses and liabilities to which the other party may become liable as a result of the Client failing to comply with the DPA, GDPR and any regulations issued pursuant to these and any guidance issued by the Information Commissioner or any other regulatory body in respect of personal data.

## **11. Termination**

Subject to clause 1 above, the Agency's appointment may be terminated by either party giving not less than a period of one months notice in writing to the other. It is agreed that during the notice period the Client will pay or reimburse (as the case may be) the Agency its normal charges under this Agreement.

## **12. Promotion and PR**

Agitate Digital understands that it's involvement with the Client cannot be promoted through case studies and associated promotion and PR unless approval of the Client has been given.