



STANDARD TERMS AND CONDITIONS

TABLE OF CONTENTS

1	DEFINITIONS AND INTERPRETATION	3
2	FORMATION OF CONTRACT	5
3	SERVICES	5
4	FEES AND PAYMENT	6
5	OBLIGATIONS OF THE CLIENT	7
6	MATERIALS AND INAPPROPRIATE CONTENT	8
7	CONFIDENTIALITY	8
8	DATA PROTECTION	9
9	INTELLECTUAL PROPERTY RIGHTS	10
10	INDEMNITY AND LIMITATIONS OF LIABILITY	10
11	TERM AND TERMINATION	12
12	SUSPENSION OF SERVICES	13
13	NOTICES	13
14	MISCELLANEOUS	14
SERVICE SCHEDULE		
1	DEFINITIONS	16
2	SERVICE PARTICULARS	16
3	DELIVERY OF SPONSORED CONTENT	17
4	DELIVERY OF MARKETING SERVICES	17

1. DEFINITIONS AND INTERPRETATION

1.1 Defined words and expressions used in this Contract shall take the following meanings:

'Business Day' a day other than a Saturday, Sunday or any federal holiday;

'Client' the party which issues the Order;

'Client Data' means any personal data provided by or on behalf of the Client (or a user of the Services or Deliverables);

'Confidential Information' has the meaning given in clause 7.1;

'Confirmation' a written communication from Today Digital to the Client committing its acceptance of the Order;

'Contract' the contract between Today Digital and the Client comprising these Terms, the Quotation and any other applicable documentation;

'Defects' alleged failure of the Services or the Deliverables (or any part thereof) to comply with the requirements agreed between the parties;

'Deliverables' means the end product to be provided to or used by or for the benefit of the Client, defined more particularly with reference to the Quotation;

'DP Legislation' means any applicable privacy and data protection laws (including, where applicable, the California Consumer Privacy Act of 2018 and the General Data Protection Regulation (EU) 2016/679 of April, 27 2016 ("GDPR")) as may be amended from time to time;

'Fees' the fees payable by the Client to Today Digital for the Services;

'Inappropriate Content' has the meaning given in clause 6.3;

'Intellectual Property Rights' patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world, including the right to sue for and recover damages for past infringements;

'Loss' any actions, awards, charges, claims, compensation, costs, damages, demands, expenses, fees, fines, liabilities, losses, penalties and proceedings and settlements;

'Materials' the content, information, instructions, scripts, media, documentation or other materials provided to Today Digital by the Client from time to time and in whatever form or media for incorporation in the Deliverables or otherwise for Today Digital's use in conjunction with the provision of the Service(s);

'Request' a request from the Client for Today Digital to provide the Service(s), issued to Today Digital in writing at team@todaydigital.com;

'Order' the Client's order for Services as issued to Today Digital in writing;

'Order Confirmation' a written communication from Today Digital to the Client committing its acceptance of the Order;

'Personal Data' means information that, alone or in combination with other information provided to Digital Today, can be used to identify (whether directly or indirectly) an individual person.

'Platforms' means the online web platform(s) operated by Today Digital from time to time through which the Services are provided;

'Privacy Policy' means Today Digital's privacy policy which governs, amongst other matters, its processes and procedures under DP Legislation, which can be found at <https://www.todaydigital.com/privacy/>;

'Quotation' the quotation document issued by Today Digital to the Client in writing containing details of the Deliverables;

'Service(s)' the service(s) to be delivered by Today Digital to the Client, as specified in the Service Schedule or Quotation as the case may be;

'Term' the period of time during which the Contract remains in force;

'Terms' means these standard terms and conditions;

'Today Digital' means Today Digital Inc., a California corporation with its principal office located at 1510 Fashion Island Blvd., Suite 300, San Mateo, CA 94404.

'Virus' any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Unless the context otherwise requires:

- (a) References to clauses, Schedules and paragraphs are to the relevant clauses, Schedules or paragraphs of this Contract;
- (b) The headings to the clauses, Schedules and paragraphs of this Contract will not affect the interpretation;
- (c) Any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.

2. FORMATION OF CONTRACT

- 2.1 Where the Client wishes to receive the Services, it shall send a Request.
- 2.2 Today Digital may use the information given to it by the Client or information it may hold about the Client, or which it receives from any enquiry made with various agencies (including but not limited to credit reference agencies) in reaching any determination as to the basis on which it deals with the Client.
- 2.3 Today Digital may then, at its discretion, issue a Quotation to the Client. The Quotation is not an offer by Today Digital to the Client but for the avoidance of doubt shall remain valid for a period of 14 days.
- 2.4 The Client may then raise an Order which constitutes an offer by the Client to Today Digital to receive the Services. The Client is responsible for ensuring that the terms of the Order are complete and accurate.
- 2.5 Provided that Today Digital reserves the right at its absolute discretion to accept or reject an Order, Today Digital shall within a reasonable period of its receipt of an Order (where it wishes to accept it) issue an Order Confirmation.
- 2.6 At the point at which Today Digital delivers an Order Confirmation or (if earlier), commences the delivery of any of the Service(s), the Contract shall be formed between the parties.

3. SERVICES

- 3.1 Following Today Digital's issuance of an Order Confirmation, it shall provide the Services in accordance with this Contract using reasonable care and skill.
- 3.2 Today Digital may, on prior written notice to the Client, make changes to the Services, provided that such changes do not have a materially adverse effect on the Client's business operations.
- 3.3 Today Digital may require the Client to approve certain proofs of literature produced in the course of providing the Services from time to time ('Proofs').
- 3.4 Where Today Digital has completed the Proofs and deems it reasonably necessary to obtain the approval of the Client in advance of making use of the Proofs it shall disclose the Proofs to the Client. The Client shall indicate whether it accepts the Proofs or rejects them, in which case it shall notify Today Digital of what changes it would like to be made to the Proofs prior to their use.
- 3.5 Today Digital may from time to time and at its discretion, amend the Services available to the Client and shall within a reasonable time notify the Client in writing of such changes.
- 3.6 If Today Digital's performance of its obligations under this Contract is prevented or delayed by any act or omission of the Client, its employees, agents, subcontractors or consultants then without prejudice to any other right or remedy it may have, Today Digital shall be allowed an extension of time to perform its obligations equal to the delay caused by the Client.

- 3.7 The Client agrees and acknowledges that Today Digital makes no warranties, undertakings or guarantees with regards to:
- (a) The results, leads or sales as a result of the performance of the Services;
 - (b) The Platform(s) being uninterrupted or error free or any traffic which may pass through or otherwise land on the Platform(s).
- 3.8 Except for the limited warranties set out in this Contract, Today Digital excludes and the Client waives all other representations, conditions, terms and warranties, whether express, implied, collateral, arising by operation of law or otherwise, including but not limited to any implied warranties of merchantability, merchantable quality, non-infringement, durability, title or fitness for a particular purpose, except to the extent such representations, conditions, terms or warranties may not be excluded by law.
- 4. FEES AND PAYMENT - SPECIAL ATTENTION IS DRAWN TO THIS CLAUSE**
- 4.1 Today Digital shall raise invoices for the Services and the Client shall make payment in respect of the same in accordance with the payment method stipulated in the Quotation. In the absence of any such terms being set out in the Quotation and subject to the parties agreeing an alternative payment method in writing, each invoice shall be due and payable immediately.
- 4.2 Payment made by the Client via credit card or as detailed by Today Digital, may be subject to additional charges payable by the Client to cover any such bank charges or commissions incurred by Today Digital.
- 4.3 Time for payment of all Fees under and in accordance with the Contract is of the essence.
- 4.4 Payment of all Fees are due in U.S. Dollars and shall be made without set off, counterclaim or deduction.
- 4.5 In the event that Today Digital has not received payment of any due Fees by the due date for payment and without prejudice to any other rights or remedies of Today Digital:
- (a) Today Digital may suspend or otherwise disable the provision of, or cease to provide any or all of the Service(s) whilst the relevant Fees concerned remain unpaid; and
 - (b) Interest shall accrue on a daily basis on such due amounts at an annual rate equal to (i) 12% or (ii) the maximum rate allowed by applicable law.
- 4.6 The Fees exclude value added tax and any applicable additional or substitute taxes, levies, imposts, duties, fees or charges whatsoever and whenever, all of which shall be paid additionally by the Client.
- 4.7 If the Client disputes any portion of an invoice, the Client must pay the undisputed portion of an invoice in full notwithstanding such dispute and notify Today Digital of such dispute within 20 days of receipt of said invoice.

4.8 All amounts payable to Today Digital by the Client under these Terms shall become immediately due and payable:

- (a) On termination of this Contract for any reason; or
- (b) If the Client becomes subject to any of the events listed in clause 11.2.

5. OBLIGATIONS OF THE CLIENT

5.1 The Client shall be responsible for:

- (a) Providing Today Digital with:
 - (i) all necessary co-operation and information as may be required by Today Digital in relation to the performance of its obligations under this Contract;
 - (ii) all necessary access to such information as may be required by Today Digital;
 - (iii) security access information and configuration services; and
 - (iv) safe access to, egress from and movement around its premises, where the same is needed to be accessed by Today Digital in order to provide any of the Services;
- (b) compliance with all applicable laws and regulations with respect to its activities under this Contract;
- (c) carrying out all other Client responsibilities set out in this Contract in a timely and efficient manner. In the event of any delays in the Client's provision of such assistance as agreed by the parties, Today Digital may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (d) obtaining and shall maintain all necessary licences, consents, and permissions necessary for Today Digital, its contractors and agents to perform their obligations under this Contract, including without limitation the Services;
- (e) ensuring that its network and systems comply with the relevant specifications provided by Today Digital from time to time; and
- (f) procuring and maintaining its network connections and telecommunications links from its systems to Today Digital's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Client's network connections or telecommunications links or caused by the internet.

5.1 The Client shall not access, store, distribute or transmit any Viruses, or any material during the course of its receipt of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;

- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property, and Today Digital reserves the right, without liability or prejudice to its other rights to or against the Client, to disable the Client's access to any material that breaches the provisions of this clause.

6. MATERIALS AND INAPPROPRIATE CONTENT

- 6.1 The Client shall provide to Today Digital in a timely manner all documents, information, items and materials in connection with the Services, and shall provide them in whatever form and format required by Today Digital.
- 6.2 The Client shall be responsible for the accuracy and completeness of the Materials.
- 6.3 The Client shall ensure that the Materials do not infringe any applicable laws, regulations or third party rights (including material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred or acts of terrorism, menacing, blasphemous or in breach of any third party's Intellectual Property Rights) ('**Inappropriate Content**').
- 6.4 The Client shall indemnify Today Digital for and against all Losses arising as a result of any action or claim that the Materials constitute Inappropriate Content.

7. CONFIDENTIALITY

- 7.1 Each party agrees and undertakes that it will keep confidential and will not use for its own purposes nor without the prior written consent of the other party disclose to any third party all information of a confidential nature (including trade secrets, information of commercial value, the terms of this Contract and any information in written or other documentary form supplied by one party to the other) which may become known to that party from the other party ('**Confidential Information**') unless the Confidential Information is public knowledge or already known to that party at the time of disclosure or subsequently become public knowledge other than by breach of this Contract or subsequently comes lawfully into the possession of that party from a third party.
- 7.2 To the extent necessary to implement the provisions of this Contract each party may disclose the Confidential Information (i) to those of its employees as may be necessary or desirable provided that before any such disclosure each party shall make those employees aware of its obligations of confidentiality under this Contract and shall at all times procure compliance by those employees with them or (ii) as compelled by law.

8. DATA PROTECTION

- 8.1 Each party shall, in performing its obligations under this Contract, comply with DP Legislation and, in the case of Today Digital, shall act in accordance with the Privacy Policy.
- 8.2 To the extent any Client Data is subject to GDPR and if Today Digital processes such Client Data when performing its obligations under this Contract, the parties record their intention that the Client shall be the Data Controller and Today Digital shall be a Data Processor and in any such case:
- (a) the Client warrants that it has a legal basis under the DP Legislation to enable the lawful transfer of the Client Data to Today Digital for the Term and the purposes of the Contract and, where required under the DP Legislation, it has obtained the prior and express consent of each Data Subject to transfer the Client Data to Today Digital in accordance with DP Legislation and that the Client is accordingly entitled to transfer the Client Data to Today Digital so that it may lawfully use, process and transfer the Client Data in accordance with this Contract;
 - (b) the Client acknowledges and agrees that the Client Data may be transferred or stored outside the EEA or the country where the Client and the Data Subjects are located in order to carry out the Services and Today Digital's other obligations under this Contract;
 - (c) the Client warrants that it is entitled to transfer the relevant Client Data to Today Digital having obtained the Data Subject's express consent so that Today Digital may lawfully use, process and transfer the Client Data in accordance with this Contract on the Client's behalf;
 - (d) the Client shall ensure that the relevant third parties have been informed of, and have given their consent to, such use, Processing, and transfer as required by DP Legislation; and
 - (e) each party shall take appropriate technical and organisational measures against unauthorised or unlawful Processing of the Client Data or its accidental loss, destruction or damage.
- 8.3 Today Digital shall:
- (a) only carry out Processing of any of the Client Data on the Client's and any other lawful instructions given from time to time;
 - (b) only transfer the Client Data to countries outside EEA that ensure an adequate level of protection for the rights of the Data Subject; and
 - (c) promptly and fully notify the Client in writing of any notices in connection with the Processing of any Client Data, including subject access requests, and provide such information and assistance as the Client may reasonably require.
- 8.4 In the event of any loss or damage to Client Data, the Client's sole and exclusive remedy shall be for Today Digital to use reasonable commercial endeavours to restore the Client Data which has been lost or damaged from the latest back-up of such maintained by the Client.

8.5 Except as expressly provided otherwise, this Contract does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights in any data, which is not Personal Data.

9. INTELLECTUAL PROPERTY RIGHTS

9.1 The parties agree that, except as expressly agreed in writing, this Contract does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights.

9.2 The Client shall use its best endeavours to prevent any infringement of Today Digital's Intellectual Property Rights and shall promptly report to Today Digital any such infringement that comes to its attention.

9.3 Today Digital grants a non-exclusive, royalty free, revocable licence to the Client to make use of the Deliverables strictly for the purpose of performing the Services under this Contract.

9.4 The Client expressly agrees that Today Digital may use any of the Client's trade marks, service marks, trade names and rights in get-up in any marketing or publicity materials including but not limited to the use of the aforementioned on Today Digital's website.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 The Client shall indemnify Today Digital, keep Today Digital indemnified and hold Today Digital harmless for and against all Loss (including any direct, indirect, special or consequential Loss, loss of profit, loss of business, contract, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by Today Digital arising out of or in connection with:

- (a) the Client's breach of this Contract howsoever arising;
- (b) any wilful or negligent act or omission of the Client, its officers, employees, contractors or agents; and
- (c) the Client's use of the Services and any Deliverables.

10.2 Except as expressly and specifically provided in this Contract:

- (a) the Client assumes sole responsibility for results obtained from the use of the Services and the Deliverables, and for conclusions drawn from such use. Today Digital shall have no liability for any damage caused by errors or omissions in any information provided to Today Digital by the Client in connection with the Services, or any actions taken by Today Digital at the Client's direction;
- (b) Today Digital makes no warranties or guarantees relating to any projections of income, leads or otherwise which may be generated by the Client arising out of or in connection to the Services; and
- (c) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract.

10.3 Nothing in this Contract excludes the liability of Today Digital for:

- (a) death or personal injury caused by Today Digital's negligence; or
- (b) fraud or fraudulent misrepresentation.

10.4 Subject to clause 10.2 and clause 10.3:

- (a) Today Digital shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any Loss of an indirect, special, incidental, punitive or consequential nature howsoever arising under this Contract, any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss;
- (b) Today Digital's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the total of all Fees paid to Today Digital by the Client in cleared funds during the 12 months immediately preceding the date on which the claim arose; and
- (c) in no event shall Today Digital, its employees, agents and sub-contractors be liable to the Client for any Defects or to the extent that any alleged infringement of Intellectual Property Rights is based on:
 - (i) a modification of the Services or Deliverables by anyone other than Today Digital; or
 - (ii) the Client's use of the Services or Deliverables in a manner contrary to the instructions given to the Client by Today Digital; or
 - (iii) the Client's use of the Services or Deliverables after notice of the alleged or actual infringement from Today Digital or any appropriate authority; or
 - (iv) the fraudulent or unauthorised use of any Service or Deliverables by the Client; or
 - (v) the Client's installation of any applications, utilities or other software programs or re-configuration of the Deliverables or Services (including, but not limited to, hardware, firmware, software, programming, configuration and service) or otherwise modifies or alters any of the foregoing.

10.5 If the Services and/or any Deliverables, or any portion thereof, infringe, or in Today Digital's opinion are likely to infringe any third-party Intellectual Property Rights, Today Digital may procure the right for the Client to continue using the Services and/or any Deliverables, replace or modify the Services and and/or any Deliverables so that they become non-infringing or, if such remedies are not reasonably available, terminate this Contract on 2 Business Days' notice to the Client without any additional liability or obligation to pay liquidated damages or other additional costs to the Client.

- 10.6 The foregoing states the Client's sole and exclusive rights and remedies, and Today Digital's (including Today Digital's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights and confidentiality.
- 10.7 No employee or representative of Today Digital, other than a duly authorised officer, has any authority to bind Today Digital to any warranty or undertaking whatsoever other than that, if any, provided in this Contract, or to vary the terms of this Contract.

11. TERM AND TERMINATION

- 11.1 This Contract shall be for the Term commencing with the date on which the Contract is formed and (save where terminated earlier in accordance with clause 11.2), expire with immediate effect at the end of the Term.
- 11.2 Today Digital may either terminate or suspend this Contract (in full or in relation to any individual or combination of Services) immediately by written notice to the Client in the event that:
- (a) the Client fails to pay any undisputed amounts due to Today Digital in relation to any Service(s);
 - (b) the Client commits any breach of a material provision of this Contract that is irremediable or, if remediable, is not remedied by the Client within 14 days' of the Client's receipt of written notice from Today Digital specifying the breach and requiring its remedy;
 - (c) any regulatory decision or governmental order requiring Today Digital to suspend the provision of the Service(s) or the Deliverables; or
 - (d) the Client:
 - (i) becomes insolvent, ceases to do business as a going concern, makes an assignment, composition or arrangement for the benefit of its creditors, or is deemed or admits in writing its inability to pay debts; or
 - (ii) if proceedings are instituted by or against it for receivership or administration (in each case over the whole or a material part of its business or assets), winding-up or dissolution (other than in the course of a solvent reorganization or restructuring), provided that such proceedings are not dismissed within sixty (60) days from the initiation thereof;
 - (e) any event occurs, or proceeding is taken, with respect to the Client in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this clause 11.2.
- 11.3 In any circumstance in which Today Digital may terminate any or any portion of this Contract, it may exercise its right to suspend performance of any of the Service(s).
- 11.4 On termination of this Contract by Today Digital under clause 11.2, all licences granted by Today Digital under this Contract shall terminate immediately.
- 11.5 Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract shall remain in full force and effect.

- 11.6 Termination or expiry of this 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.
- 11.7 In the event that the Client terminates the Contract during the Term, Client shall pay to Today Digital, in addition to all other charges due prior to termination, the charges remaining to be paid for the unexpired portion of the Term for the Services. Client acknowledges and agrees that this amount is an agreed upon early termination charge in the nature of liquidated damages, and is not a penalty.

12. SUSPENSION OF SERVICES

- 12.1 Subject to clause 11.2, Today Digital reserves the right to suspend (in full or in relation to any individual or combination of Services) this Contract immediately by written notice to the Client.
- 12.2 Exercise by Today Digital of its right to suspend performance of its obligations under this Contract shall:
- (a) be without liability to the Client; and
 - (b) not function as a waiver of any right of termination that Today Digital may have under this Contract.
- 12.3 Upon Today Digital's suspension of any Service to the Client under any of the foregoing clauses, Today Digital may, in addition to all other remedies that may be available to Today Digital, assess and collect from the Client any applicable liquidated damages.

13. NOTICES

- 13.1 All notices under this Contract shall be in writing and must be in English.
- 13.2 Notices shall be deemed to have been duly given:
- (a) when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
 - (b) at 9:00 am on the next Business Day, if transmitted by email to an email address nominated by the parties in writing; or
 - (c) at 9:00 am on the second Business Day following mailing, if mailed by national ordinary mail, postage prepaid, in each case addressed to the most recent address or email address notified to the other party.

14. MISCELLANEOUS

- 14.1 **Force Majeure.** Neither party shall have any liability under or be deemed to be in breach of this Contract for any delays or failures in performance of this Contract which result from circumstances beyond the reasonable control of that party. If such circumstances continue for a continuous period of more than 3 months, the non-affected party may terminate the Service(s) affected only by written notice to the other party.
- 14.2 **Marketing.** The Client agrees that Today Digital may refer to the Client and may briefly describe the Client's business in Today Digital's marketing materials and on its website. The Client hereby grants Today Digital a limited licence to use any Client trade names and trade marks solely in connection with the rights aforesaid.
- 14.3 **Severability.** If any provision of this Contract is or becomes prohibited by law or is judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be modified to the minimum extent required in order to give its intended effect, else to the extent that this is not possible, be severed from this Contract and rendered ineffective as far as possible without modifying the remaining provisions of this Contract without affecting any other circumstances of or the validity or enforcement of the remainder of this Contract.
- 14.4 **No Waiver.** Unless a party expressly waives its rights in writing no delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of this Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Contract. No right, power or remedy conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party.
- 14.5 **Set Off.** Where Today Digital has incurred any liability to the Client, whether under this Contract or otherwise, and whether such liability is liquidated or unliquidated it may set off the amount of such liability against any sum that would otherwise be due to it by the Client.
- 14.6 **Entire Agreement.** The parties agree that this Contract constitutes the entire agreement between the parties and the Client confirms that it has not entered into it on the basis of any representation that is not expressly incorporated into this Contract.
- 14.7 **No Third-Party Beneficiary.** This Contract shall not confer any rights or remedies upon any person other than the parties hereof and their respective successors and permitted assigns.
- 14.8 **Partnership.** This Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary or other relationship between the parties.
- 14.9 **Variation.** This Contract may not be released, discharged, supplemented, interpreted, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties.
- 14.10 **Transfer.** This Contract is personal to the Client and the rights and obligations hereunder may not be assigned or transferred to a third party without the prior written approval of Today Digital. Today Digital may assign or transfer its rights and obligations hereunder without the Client's prior written consent.

- 14.11 **Successors.** This Contract shall be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assignees, and references to a party in this Contract shall include its successors and permitted assignees.
- 14.12 **Law & Jurisdiction.** This Contract will be interpreted in accordance with and governed by the laws of the state of California (other than such laws, rules, regulations and case law that would result in the application of the laws of a jurisdiction other than those of the State of California). Any legal action brought under or in connection with the subject matter of this Agreement shall be brought only in the state or federal courts located in San Mateo County, California and each party irrevocably submits to the exclusive jurisdiction of such courts.

SERVICE SCHEDULE

1. DEFINITIONS

'Sponsored Content Credits' has the meaning given in paragraph 3(a);

'Sponsored Content' the services to be delivered by Today Digital to the Client through the Platforms through the generation and placing of content on the Platforms, further particulars of which are set out in paragraph 2 below; and

'Sponsored Content Term' means the period of time during which the Sponsored Content shall be provided as set out in the Quotation or otherwise as agreed in writing between the parties and which may be extended in accordance with paragraph 3(b);

'Marketing Services' the digital marketing services to be delivered by Today Digital to the Client through the Platforms whether through the placing of sponsored advertisements, digital content or otherwise with a view to generating leads as particularised in the Quotation, further particulars of which are set out in paragraph 2 below; and

'Marketing Term' means the period of time during which the Marketing Services shall be provided as set out in the Quotation or otherwise as agreed in writing between the parties and which may be extended in accordance with paragraph 4.2.

2. SERVICE PARTICULARS

Sponsored Content

Type of Service	Particulars
Written Articles	The creation, posting and promotion by Today Digital of a written article or articles as the case may be.
Video Content	The creation, posting and promotion by Today Digital of a video interview, panel discussion or product demonstration.
Display Advertising	The promotion of a display advert by Today Digital which has provided by the Client.
Social Media Promotion	The promotion of content across Today Digital's (and associated brands) social media channels.
Newsletter Inclusion	Promotion of content via Today Digital's email newsletter.

Marketing Services

Type of Service	Particulars
Written Articles	The creation, posting and promotion by Today Digital of a written article or articles as the case may be.
Video Content	The creation, posting and promotion by Today Digital of a video interview, panel discussion or product demonstration.
Display Advertising	The promotion of a display advert by Today Digital as provided by the Client.
Social Media Promotion	The promotion of content across Today Digital's (and associated brands) social media channels.
Newsletter Inclusion	Promotion of content via Today Digital's email newsletter.
Email Campaign	Targeted email marketing campaign including solus email promotion.
Event Coverage	Remote and on-location event coverage, including written interviews, video interviews and podcasts.

3. DELIVERY OF SPONSORED CONTENT

Where the Services comprise Sponsored Content:

- (a) in response to specific instructions received by the Client from time to time, Today Digital shall provide Sponsored Content to a quantity specified in the Quotation (**Sponsored Content Credits**) during the Sponsored Content Term;
- (b) where the applicable quantity of Sponsored Content Credits purchased by the Client has:
 - (i) been utilized during the Sponsored Content Term it may purchase additional Sponsored Content Credits at the rate quoted by Today Digital and agreed in writing between the parties for a subsequent Editorial Term; and
 - (ii) not been utilized during the Sponsored Content Term, it may not carry these across to any subsequent Sponsored Content Term.

4. DELIVERY OF MARKETING SERVICES

- 4.1 The parties shall agree upon a marketing strategy in accordance with which the Marketing Services shall be performed for the Marketing Term.
- 4.2 Where the Client wishes to extend the Marketing Term it shall notify Today Digital in writing, together with details of the Marketing Services required for such extended period and on the written agreement of the parties being reached as to the details of the Marketing Services, applicable strategy and Fees for the extended term, the Marketing Term shall be extended accordingly.