

This agreement is between **GREEN ELEMENT LIMITED** a company incorporated in England and Wales (Number 05386932) and whose Registered Office is at The Station House, 15 Station Road, St Ives, Cambridgeshire, United Kingdom, PE27 5BH ("**Green Element**") and you, ("**the Client**").

This is a Click to Agree Contract. If the Client wishes to be bound by these Terms and Conditions, the Client must click to accept these Terms and Conditions. If the Client does not agree to be bound by these Terms and Conditions, the Client cannot order or use any Services. The person accepting these Terms and Conditions on behalf of Client must be at least 18 years of age.

Green Element's issue of an Engagement Letter to the Client constitutes a contractual offer and the Client's signing/acceptance of an Engagement Letter will conclude the contract between Green Element and the Client relating to the Services detailed in the Engagement Letter. The Engagement Letter will be deemed to be subject to and include these Terms and Conditions.

The contract ("**Agreement**") between the Client and Green Element will comprise:

1. the Engagement Letter(s);
2. these Terms and Conditions; and
3. Green Element's Privacy Policy as detailed in Clause 14.

If there is any conflict between the terms of an Engagement Letter and these Terms and Conditions, then the terms of the Engagement Letter will prevail.

The elements of the Agreement will have precedence as follows:

1. Engagement Letter(s) (in reverse chronological order);
2. Terms and Conditions;
3. Privacy Policy;

The following is a statement of the Terms of Business (Consulting) under which the engagement referred to in the relevant Engagement Letter, brief or proposal will be conducted by Green Element.

For ease of expression, the Engagement Letter, brief or proposal document (including its attachments) is referred to as "**the Engagement Letter**", the recipient of the Engagement Letter is referred to as "**the Client**" and the services and deliverables detailed in the Engagement Letter to be provided to the Client are referred to as "**the Project**".

Unless specified otherwise, words and phrases in these Terms and Conditions shall have the same meanings as those ascribed to them in the Engagement Letter.

## **Project Overview**

- 1.1. Green Element and the Client acknowledge that the success of the Project is the joint responsibility of both parties.
- 1.2. Green Element and the Client recognise they must both use commercially reasonable endeavours to meet agreed target dates for the Project.

## **2. Payment and Taxes**

- 2.1. All fees and expenses will be charged monthly in arrears or as otherwise specified in the Engagement Letter and are payable within 60 days of the date of Green Element's invoice. Any sum which remains outstanding after 60 days of this date will bear interest on a daily basis from the original due date until paid in full. This interest will be calculated at an annual rate of 3% above the base rate then prevailing at HSBC.
- 2.2. The Client shall pay for all taxes incurred in connection with the Project including value-added, sales, use, excise, services, consumption, withholding and other taxes and duties assessed on the provision of services and deliverables by Green Element to the Client in relation to the Project and on any goods or services used or consumed by either party in connection with the Project.
- 2.3. If any payments received by Green Element in connection with the Project are subjected to or reduced by any taxes required to be withheld by the Client, the payments shall be grossed up so as to result in Green Element's receipt of an amount equal to that which would have been received by Green Element but for the said taxes.
- 2.4. The Client agrees to be liable for any deficiency (including penalties and interest) relating to taxes which are the responsibility of the Client under the Project and reimburse Green Element for all accounting and legal fees and expenses incurred in connection with an assessment of such a deficiency.
- 2.5. This Clause will survive termination of the Agreement for any reason.

## **3. Confidentiality**

- 3.1. The Engagement Letter, including its attachments, are the confidential property of Green Element . The Client agrees that no part of them shall be disclosed to any third party without the prior written consent of Green Element or used for purposes other than the Project.
- 3.2. The parties acknowledge that in the course of the Project they will have access to one another's "**Confidential Information**", meaning information in whatever form (including without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, clients, suppliers, products, affairs and finances of the other party or and trade secrets including, without limitation, technical data and know-how relating to the business of the other party or of any Group Company (meaning a company which is a subsidiary of or a holding

company or a subsidiary of a holding company of a party (including as aforesaid) as the terms “subsidiary” and “holding company” are defined by Section 1159 of the Companies Act 2006 as amended) or any of its or their suppliers, customers, the other party’s, agents, distributors, shareholders, management or business contacts.

- 3.3. The Client and Green Element each agree to keep confidential and not to disclose to any third party any Confidential Information (excluding information which is or becomes public knowledge other than as a result of the default of the recipient), or to make use of any such Confidential Information for any purpose other than in connection with the Project or as required by law.
- 3.4. At any stage during the Project, the parties will promptly on request by the other party return all and any Confidential Information in its possession to the other party.
- 3.5. This Clause will survive termination of the contract for any reason.

#### **4. Remedies and Liabilities**

- 4.1. The Client agrees to give Green Element a reasonable opportunity to remedy any failure or shortcoming in the provision by Green Element of the Services or deliverables comprised in the Project to the Client. Green Element undertakes, at its expense, to use all commercially reasonable efforts to implement such remedy as soon as reasonably practicable after any such failure or shortcoming is identified and reported to it by the Client in writing.
- 4.2. In respect of any liability which is not within the scope of paragraph 4.3 or in relation to any infringement of third party intellectual property rights, each party’s total liability under or in connection with the Project (whether in contract, tort (including negligence) or otherwise) shall not exceed in aggregate twice the total fees paid or payable to Green Element in respect of the Project. This cap on liability shall not apply to breach of Clauses 3 (Confidentiality), Clause 5 (Intellectual Property Rights) or 15 (Data Protection) or for breach of any third party’s intellectual property rights.
- 4.3. Neither party shall be liable (whether in contract, tort (including negligence) or otherwise) for any indirect, incidental, punitive or consequential loss, damage, cost or expense whatsoever.
- 4.4. Neither party will be liable for any loss, damage, cost or expense whatsoever and howsoever caused arising from any fraudulent or unauthorised act or statement, misrepresentation or default on the part of the other party, its directors, employees, agents and other contractors.
- 4.5. The express obligations and warranties made by either party in the Engagement Letter and these Terms and Conditions are in place of and to the exclusion (to the fullest extent permitted by law) of any other warranty, condition, term or undertaking of any kind, express or implied, statutory or otherwise, including (without limitation) as to the condition, performance, fitness for purpose or satisfactory quality of the Project or any part thereof.
- 4.6. Green Element does not give any guarantee of any specific results from the results of the Project. Without prejudice to the foregoing, Green Element does not guarantee that the Client or its business or any Group

Company will make any monetary savings, will be more profitable or successful or be able to avoid any government taxes or penalties in any particular jurisdiction.

4.7. The allocations of liability in these Terms and Conditions represent the agreed and negotiated understanding of the parties and Green Element's charges for Services reflect such allocations.

4.8. This Clause will survive termination of the Agreement for any reason.

## 5. Intellectual Property Rights

5.1. The copyright and all other proprietary rights existing now or in the future in all computer programs, documentation and other materials as well as in any idea, method, invention, discovery, design, concept or other work ("**the Works**") arising from Green Element's performance of the Project (whether conceived or developed individually or jointly with the Client and others) shall belong to and be the absolute property of Green Element. At the request and expense of Green Element, the Client will do all such things and sign all documents reasonably necessary to enable Green Element to obtain all such rights in the Works.

5.2. Green Element will grant to the Client, including its parent and subsidiaries, a non-transferable, non-exclusive licence to use and reproduce only any deliverable provided under the Project including the Works.

5.3. The Client acknowledges that in the course of its performance of the Project Green Element may use products, materials or methodologies proprietary to Green Element or a third party or Green Element may produce proprietary materials or methodologies that are not part of the deliverables. The Client agrees that it will not have nor obtain rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement on terms to be agreed and the Client agrees to maintain the confidentiality of such items. Green Element warrants that it has all necessary rights to use such third party products, materials or methodologies in the Works.

5.4. This Clause will survive termination of the Agreement for any reason.

## 6. Termination

6.1. The Client can terminate the Agreement at any time, giving a period of notice in writing of one month. The Client will be liable for the payment of all charges incurred during the period of notice.

6.2. Upon the termination of this Agreement for any reason:

6.2.1. any sum owing by either party to the other under any provisions of these Terms and Conditions shall become immediately payable;

6.2.2. each party shall forthwith cease to use, either directly or indirectly, any Confidential Information of the party, and shall forthwith destroy, delete or return to the other party any documents and other materials and copies of them in its possession or control (whether in hard copy or electronic form) which contain, record or comprise any Confidential Information of the other party;

6.2.3. any provision of these Terms and Conditions which is expressed to continue in force after termination shall continue in full force and effect; and

6.2.4. except in respect of accrued rights, neither party shall be under any further obligation to the other.

## **7. Responsibilities**

7.1. The Client agrees to provide Green Element promptly with accurate and complete information concerning its activities, decisions and approvals relevant to the Project. If any of Green Element's personnel work on the Client's premises, the Client will provide such personnel with suitable office accommodation and services, and full and free access to any required computing facilities. The Client is responsible for the provision of suitable environmental conditions, including electrical supplies, at its premises. The Client will ensure that all computing and ancillary facilities provided to Green Element's personnel for use in connection with the Project and the working environment at the Client's premises will comply with all applicable health and safety regulations.

7.2. The parties shall:

7.2.1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

7.2.2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

7.3. The success of the Project relies on the accurate and truthful input of information and answers by the Client. False, misleading and inaccurate information and answers will result in an inaccurate Project result.

7.4. The Client acknowledges that any other jurisdiction's preparation or compliance, either generally or in relation to particular systems and processes, is a matter which remains solely the Client's business responsibility. Green Element Ltd cannot and does not take any responsibility in respect of such preparation or compliance in providing services to the Client as part of the Project.

## **8. Force Majeure**

8.1. Neither Green Element nor the Client will be liable for any delay in performing or failure to perform their obligations if such failure or delay is as a result of causes outside the reasonable control of the responsible party. If such delay persists for four weeks or longer, either party may terminate the Project without penalty (except as regards any prior breach of the Agreement).

## **9. Recruitment of staff**

9.1. Each party will for the duration of the Project and for a period of 6 months after its termination (for whatever reason), not directly or indirectly solicit for employment, nor offer employment to, nor enter into any contract for services with any of the other party's employees or subcontractors who, at the time of such action or during a period of 6 months immediately preceding such action, carried out work in connection with the Project.

9.2. This Clause will survive termination of the Agreement for any reason.

## **10. Third Party Rights**

10.1. Nothing in these Terms and Conditions or the attached Engagement Letter is intended to confer any benefit on any third party (whether referred to herein by name, class, description or otherwise) or any right to enforce a term of these Terms and Conditions or the attached Engagement Letter.

## **11. Entire Agreement**

11.1. The Engagement Letter and these Terms and Conditions constitute the entire express agreement between the Client and Green Element relating to the Project and supersede all previous communications, representations and arrangements, written or oral, except in respect of any fraudulent misrepresentation made by either party. The Client acknowledges that no reliance is placed on any representation made but not embodied in the Engagement Letter and these Terms and Conditions. The printed terms of any purchase order and other communications issued by the Client in connection with the Project will not apply unless accepted in writing by Green Element. No variation will be effective unless in writing and signed by authorised representatives of both parties. In the event of any conflict between the terms of the Engagement Letter and these Terms and Conditions, the terms of the Engagement Letter shall prevail.

## **12. Applicable Law**

12.1. The Agreement will be governed by and construed in accordance with the laws of England and will be subject to the exclusive jurisdiction of the Courts of England.

12.2. This Clause will survive termination of the Agreement for any reason.

## **13. Legal Advice**

13.1. Any legal advice we suggest through the form of oral and written communications from any employee of Green Element is not deemed actual legal advice. Green Element is not a firm of qualified lawyers and does not wish in any way to be seen as a firm of lawyers. Legal registers are put forward to clients as a template in which the Client needs to obtain actual advice from a lawyer.

13.2. This Clause will survive termination of the Agreement for any reason.

## 14. Data Protection

14.1. Green Element will only use the Client's and its employees and contractors' personal information as set out in Green Element's Privacy Policy available here <https://www.greenelement.co.uk/privacy-settings-page/>

## 15. Data Processing

15.1. In this Clause 15:

15.1.1. **“personal data”**, **“data subject”**, **“data controller”**, **“data processor”**, and **“personal data breach”** shall have the meaning defined in Article 4 of the UK GDPR; and

15.1.2. **“Data Protection Legislation”** means all applicable legislation in force from time to time in the United Kingdom applicable to data protection and privacy including, but not limited to, the UK GDPR (the retained EU law version of the General Data Protection Regulation ((EU) 2016/679), as it forms part of the law of England and Wales, Scotland, and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018); the Data Protection Act 2018 (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 as amended.

15.2. Both parties shall comply with all applicable data protection requirements set out in the Data Protection Legislation. Neither this Clause 15 nor any other provisions of these Terms and Conditions shall relieve either party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.

15.3. For the purposes of the Data Protection Legislation and for this Clause 15, Green Element is the **“Data Processor”** and the Client is the **“Data Controller”**.

15.4. The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be set out in the Annex to these Terms and Conditions.

15.5. The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in the Annex to these Terms and Conditions.

15.6. The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:

15.6.1. Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law;

15.6.2. Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor;

- 15.6.3. Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential;
  - 15.6.4. Not transfer any personal data outside of the UK without the prior written consent of the Data Controller and only if the following conditions are satisfied:
    - 15.6.4.1. The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;
    - 15.6.4.2. Affected data subjects have enforceable rights and effective legal remedies;
    - 15.6.4.3. The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and
    - 15.6.4.4. The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.
  - 15.6.5. Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects and in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);
  - 15.6.6. Notify the Data Controller without undue delay of a personal data breach;
  - 15.6.7. On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and
  - 15.6.8. Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 15 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.
- 15.7. The Data Processor shall not sub-contract any of its obligations to a subcontractor with respect to the processing of personal data under this Clause 15 without the prior written consent of the Data Controller (such consent not to be unreasonably withheld). In the event that the Data Processor appoints a subcontractor, the Data Processor shall:
- 15.7.1. Enter into a written agreement with the subcontractor, which shall impose upon the subcontractor the same obligations as are imposed upon the Data Processor by this Clause 15 and which shall permit both the Data Processor and the Data Controller to enforce those obligations; and
  - 15.7.2. Ensure that the subcontractor complies fully with its obligations under that agreement and the Data Protection Legislation.
- 15.8. Notwithstanding the foregoing some of the Data Controller's personal data may be held by the sub-processors listed in the Annex outside the United Kingdom and the Data Controller hereby consents to this, subject to the Data Processor's obligations in terms of this Agreement and the Privacy Legislation

in general.

- 15.9. The Data Controller hereby warrants, represents, and undertakes that the Personal Data shall comply with the Privacy Legislation in all respects including, but not limited to, its collection, holding, and processing.
- 15.10. This Clause will survive termination of the Agreement for any reason.

## **Annex**

Pursuant to Clause 15.4 of the Schedule, the following sets out the type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing:

### **Processing, Personal Data and Data Subjects**

#### **1. Processing by Green Element**

- 1.1 Scope: Green Element shall process Personal Data in order to provide deliver the Project, as set out in these Terms and Conditions.
- 1.2 Nature: Green Element Ltd will store and retrieve personal data described in clause 1.5 within Microsoft Office 365 products in order to make contact by email or other means, or to prioritise communications during the Project. This will include sending reminders, updates, final reports and other deliverables specified in the Engagement Letter.
- 1.3 Purpose of Processing: Used as part of providing consulting services for customer to understand their organisation and context
- 1.4 Duration of the Processing: the term of the Project
- 1.5 Name, and contact information including email address, organisation and role relating to the data subjects described in 1.6 below.
- 1.6 Categories of Data Subject: employees of the Client or its' affiliates

#### **2. Rights and Obligations of Data Controller**

The rights and obligations of the Data Controller set out in these Terms and Conditions and the Privacy Legislation

#### **Data Sub-processors outwith the United Kingdom**

1. Pandadoc;
2. Calendly;
3. Insightly.