

**Quick Look Media – Terms & Conditions for Provision of Advertising Services - to be read in conjunction with our “Terms of Website Use” and “Privacy Policy”.**

## **TERMS & CONDITIONS - PROVISION OF ADVERTISING SERVICES**

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE PROCEEDING TO MAKE PAYMENT. THESE TERMS WILL GOVERN THE RELATIONSHIP BETWEEN US GOING FORWARD AND CONTAIN PROVISIONS LIMITING OUR LIABILITY. BY MAKING PAYMENT YOU ARE CONFIRMING YOUR ACCEPTANCE OF THESE TERMS AND AGREEING TO BECOME BOUND BY THEM.

The Advertiser wishes to provide the Supplier with content that will be displayed on the Supplier's website and made accessible to members of the public via the Internet and such other forms of media as the Advertiser may offer from time to time.

**NOW IT IS AGREED** as follows:

### **1 DEFINITIONS AND INTERPRETATION**

1.1 In this Agreement, unless the context otherwise requires:

'the Advertiser'	means the person, firm or company who purchases Services from the Supplier;
'the Charges'	means the charges to be paid by the Advertiser for the Services as specified in the Order Form;
'confidential information'	means all business, technical, financial or other information created or exchanged between the parties;
'the Contact Details'	means the contact details for the parties including postal address, fax number and email address, and the names of the parties' respective representatives specified in the Order Form;
'the Content'	means all text, graphics, logos, photographs, images, moving images, sound, illustrations and other material and related documentation submitted by the Advertiser for display on the Website;
'the Initial Term'	means the initial term for the supply of the Services as specified in the Order Form;
'intellectual property rights'	means patents, trade marks, design rights, applications for any of the foregoing, copyright, topography rights, database rights, rights to know-how, trade or business

	names and other similar rights or obligations, in each case whether registrable or not in any country;
'the Order Form'	means the sheet of variable terms annexed to and forming part of this agreement;
'the Services'	means the package of advertising services provided to the Advertiser by the Supplier via the Website (and related media) as specified in the Order Form and such other ancillary services as may be agreed between the parties from time to time;
'the Supplier'	means Roy Gavin and Margaret Gavin trading as Quick Look Media of Stockleigh House Cottage, Stockleigh Pomeroy, Crediton, Devon, EX17 4AU;
'the Terms of Payment'	means the terms of payment of the Charges specified in the Order Form;
'virus'	means a computer program that copies itself or is copied to other storage media, including without limitation magnetic tape cassettes, memory chips, electronic cartridges, optical discs and magnetic discs, and destroys, alters or corrupts data, causes damage to the user's files or creates a nuisance or annoyance to the user and includes without limitation computer programs commonly referred to as 'worms' or 'trojan horses';
'visitor'	means a third party who has accessed the Website;
'the Visitor Information'	means the data collected by the Supplier about visitors and their behaviour when accessing the Website;
'the Website'	means any website or Domain Name System based site operated by Quick Look Media.

1.2 In this agreement unless otherwise specified:

- 1.2.1 reference to a subsidiary or holding company is to be construed in accordance with the Companies Act 1985 section 736;
- 1.2.2 reference to a party is reference to a party to this agreement and includes his permitted assignees and the respective successors in title to substantially the whole of his undertaking;
- 1.2.3 reference to a person includes any person, individual, company, firm, corporation, government, state or agency of a state, or any undertaking whether or not having separate legal personality and irrespective of the

jurisdiction in or under the law of which it was incorporated or exists;

- 1.2.4 words denoting the singular include the plural and vice versa and words denoting any gender include all genders;
- 1.2.5 reference to a numbered clause, paragraph or schedule is to that clause, paragraph or schedule of this agreement;
- 1.2.6 'this agreement' shall, unless the context otherwise requires, mean and include the Order Form;
- 1.2.7 'includes' and 'including' mean includes and including without limitation; and
- 1.2.8 the index to and the headings in this agreement are for information only and shall be ignored in construing it.

## **2 ADVERTISER'S OBLIGATIONS**

- 2.1 The Advertiser warrants that in relation to Content as submitted or subsequently amended:
  - 2.1.1 The reproduction and/or publication of such Content, will not breach any legislation, regulation (governmental or otherwise) or contract or infringe or violate any copyright, trademark, or other personal or proprietary right of any person or render the Supplier liable to any proceedings whatsoever;
  - 2.1.2 All advertising copy submitted to the Supplier is legal, decent, honest and truthful and complies with the British Code of Advertising Sales Promotion and Direct Marketing and all other relevant codes under the general supervision of the Advertising Standard Authority, OFCOM or any other applicable body; and
  - 2.1.3 All reasonable endeavours have been made to ensure that the Content is both error and virus free.
- 2.2 The copyright for all purposes in all artwork, copy and other material which the Supplier or its employees have originated or reworked in respect of the Website, shall vest in the Supplier. In accordance with the provisions of clause 7.1 below the Advertiser grants the Supplier a licence to publish on the Website all material not so vesting unless specifically agreed otherwise.
- 2.3 The Advertiser will indemnify the Supplier and keep it indemnified against all claims, costs, proceedings, demands, losses, damages, expenses or liabilities whatsoever incurred by the Supplier arising directly or reasonably foreseeably as a result of any breach or non-performance by the Advertiser of any of the representations, warranties or other terms herein contained or implied by law.

## **3 CHARGES AND PAYMENT**

- 3.1 The Advertiser shall pay the Charges to the Supplier according to the Terms of

Payment. The Supplier is able, at the Advertiser's election, to take payment on a one off basis or on a rolling basis (allowing for automatic renewal after the Initial Term, subject to the Advertiser's continuing right to terminate under clause 6.1 below).

- 3.2 The Supplier will notify the Advertiser of any increase in Charges and such increase will only take effect from the next payment date for the Charges.
- 3.3 The Supplier may charge the Advertiser interest in respect of late payment of any sum due under this agreement, at a rate of 4% a year above the base rate from time to time of Barclays Bank plc from the due date for payment until payment is received.

#### 4 **SUPPLIER'S OBLIGATIONS**

- 4.1 The Supplier shall use reasonable endeavours to provide the Services to the Advertiser in accordance with the Order Form.
- 4.2 The Supplier may decline to publish, or omit, suspend, edit, change the position or require amendment of all or any part of any Content accepted for inclusion on the Website from time to time.
- 4.3 The Supplier will not be liable for any loss of copy, artwork, photographs or other materials submitted as Content. The Advertiser warrants that it has retained copies and the originals of any Content supplied.
- 4.4 The Supplier will use its reasonable endeavours to minimise any service interruption which restricts visitor access to the Website, however it does not warrant that the availability of the Website will be uninterrupted. If any such Website downtime does occur the Supplier will investigate it using suitably qualified personnel, as soon as reasonably practicable after becoming aware of it, and shall remedy the downtime as soon as reasonably practicable.

#### 5 **LIABILITY**

- 5.1 ***Whilst all material contained on the Website is published in good faith, the Supplier does not in any circumstances accept responsibility for the accuracy or otherwise of any published or its compliance with any legal or regulatory requirements (nor is any kind of warranty expressed or implied by such publication). The Supplier specifically disclaims all and any liability to the Advertiser and users of any kind (other than death or personal injury caused by the Supplier's negligence or breach of statutory duty) for loss or damage of any nature whatsoever and however arising, whether due to inaccuracy, error, omission or any other cause, and whether on the part of the Supplier or its employees or agents or any other person. Save in the case of death or personal injury caused by the Supplier's negligence or breach of statutory duty, under no circumstances shall the Supplier be liable to the Advertiser or the Advertiser or any other party for any indirect or consequential damages of any kind, including, without limitation, those resulting from loss of sales, loss of goodwill, loss of profits, whether or not the Supplier was advised of the possibility of such losses.***

5.2 ***Other than as detailed in clause 5.1 above, the Supplier's liability shall be limited to either:***

5.2.1 ***placement of updated Content which is the same or similar to the original Content; or***

5.2.2 ***the amount paid or payable by the Advertiser in respect of the Services.***

## 6 **TERM AND TERMINATION**

6.1 This agreement shall commence on the date set out in the Order Form and shall continue for the Initial Term and thereafter, depending on the payment method chosen by the Advertiser will continue, until 14 days' written notice of termination is given by either party to the other expiring at any time (not earlier than the end of the Initial Term), unless terminated earlier pursuant to clause 6.2. For the avoidance of doubt the Advertiser will have no entitlement to a refund of Charges already paid in the event that they choose to terminate under the provisions of this clause 6.

6.2 Either party may terminate this agreement with immediate effect by written notice to the other party on or at any time after the occurrence of any of the following events:

6.2.1 the other party being in breach of an obligation under this agreement and, if the breach is capable of remedy, failing to remedy the breach within 28 days after receipt of a written notice of the breach and requiring its remedy;

6.2.2 the other party passing a resolution for winding up, a court of competent jurisdiction making an order for the other party's winding up or the presentation of a petition for the other party's winding up which is not dismissed within seven days (other than, in each case, for the purposes of solvent amalgamation or reconstruction where the entity resulting from the amalgamation or reconstruction effectively agrees to be bound by or assume the other party's obligations under this agreement);

6.2.3 the making of an administration order in relation to the other party or the appointment of a receiver over or an encumbrancer taking possession of or selling an asset of the other party; or

6.2.4 the other party making an arrangement or composition with his creditors generally or making an application to a court of competent jurisdiction for protection from his creditors generally.

6.3 Termination of this agreement for whatever reason shall not affect:

6.3.1 the accrued rights and liabilities of the parties arising in any way out of this agreement as at the date of termination and in particular but without limitation the right to recover damages against the other; or

6.3.2 provisions expressed to survive this agreement, which shall remain in full

force and effect.

## **7 INTELLECTUAL PROPERTY RIGHTS**

- 7.1 The Advertiser hereby grants to the Supplier a perpetual royalty-free, irrevocable licence to make available on the Website and such additional forms of media as the Advertiser may offer from time to time (either in whole or in part or in a modified or edited form) any Content submitted by the Advertiser from time to time. The Advertiser acknowledges and agrees that such submitted Content is not subject to any obligation of confidence.
- 7.2 The Supplier is the proprietor of the “Quicklookmedia” trade mark and associated marks displayed or used in connection with the Website. All other trade marks, product names and company names or logos used on the Website are the property of the Supplier or their respective third party owners. No permission is given by the Supplier in respect of the use of any such trade marks, get-up, product names, logos or titles and such use may constitute an infringement of the relevant holder’s rights.

## **8 CONFIDENTIALITY**

Each party shall keep in strict confidence both the terms of this agreement and all commercial knowhow or information which is of a confidential nature and has been disclosed to that party by the other.

## **9 ASSIGNMENT**

- 9.1 The Advertiser shall not assign, transfer, or sub-contract the benefit and/or burden of this agreement, make it the subject matter of a trust or in any other manner make it over to any third party without the prior written consent of the Supplier, which consent shall not be unreasonably withheld.
- 9.2 The Supplier may assign, transfer, or sub-contract the benefit and/or burden of this agreement, make it the subject matter of a trust or in any other manner make it over to any third party.

## **10 FORCE MAJEURE**

- 10.1 The Supplier shall have no liability to the Advertiser under this agreement if it is prevented from or delayed in performing its obligations under this agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonably control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

## 11 **CONFLICT OF TERMS**

Except as otherwise expressly provided in this agreement in the event of any conflict between the terms of this agreement and the Order Form or the standard terms and conditions of the Advertiser or the Supplier the terms of this agreement shall prevail.

## 12 **WAIVER**

- 12.1 A waiver of any term, provision or condition of this agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which it is given.
- 12.2 No failure or delay on the part of any party in exercising any right, power or privilege under this agreement shall operate as a waiver of it, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise of it or the exercise of any other right, power or privilege.
- 12.3 No breach of any provision of this agreement shall be waived or discharged except with the express written consent of the parties.

## 13 **INVALIDITY**

- 13.1 If any provision of this agreement is or becomes invalid, illegal or unenforceable in any respect under the law of any jurisdiction, whether pursuant to any judgment or otherwise:
- 13.1.1 the validity, legality and enforceability under the law of that jurisdiction of any other provision; and
  - 13.1.2 the validity, legality and enforceability under the law of any other jurisdiction of that or any other provision,
- shall not be affected or impaired in any way.
- 13.2 If any provision of this agreement is held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, that provision shall be divisible from this agreement and shall be deemed to be deleted from it and the validity of the remaining provisions shall not be affected. If any such deletion materially affects the interpretation of this agreement, the parties shall use their best endeavours to negotiate in good faith with a view to agreeing a substitute provision as closely as possible reflecting the commercial intention of the parties.

## 14 **REMEDIES**

- 14.1 The rights and remedies provided for by this agreement are cumulative with and not exclusive of any rights or remedies provided by law.
- 14.2 Without prejudice to any other rights or remedies of the parties, each party acknowledges for the benefit of the other that damages might not be an adequate

remedy for any breach of the provisions of this agreement and that, accordingly, either party shall be entitled without proof of special damage to the remedies of injunction and specific performance and other equitable remedies for any threatened or actual breach of the provisions of this agreement by the other.

## **15 NOTICES**

Notice given under this agreement shall be in writing, sent for the attention of the person, and to the address given in this agreement or on the Order Form (or such other address or person as the relevant party may notify to the other party) and shall be delivered personally or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this clause 15 is not within business hours (meaning 9.00 a.m to 5.30 p.m Monday to Friday on a day that is a business day), at 9.00 a.m on the first business day following delivery. To prove service, it is sufficient to prove that the envelope containing the notice was properly addressed and posted.

## **16 ENTIRE AGREEMENT**

- 16.1 This agreement embodies and sets forth the entire agreement and understanding of the parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this agreement. Neither party shall be entitled to rely on any agreement, understanding or arrangement not expressly set forth in this agreement save for any representation made fraudulently.
- 16.2 Unless otherwise expressly provided elsewhere in this agreement, this agreement may be varied only by a document signed by both of the parties.

## **17 RELATIONSHIP OF THE PARTIES**

Nothing in this agreement and no action taken by the parties pursuant to this agreement shall constitute, or be deemed to constitute, the parties a partnership, association, joint venture, the agents of each other or any other co-operative entity.

## **18 GOVERNING LAW AND JURISDICTION**

- 18.1 This agreement, and any dispute, controversy, proceedings or claim of whatever nature arising out of or in any way relating to it or its formation, shall be governed by and construed in accordance with the laws of England.
- 18.2 The parties irrevocably submit to the exclusive jurisdiction of the courts of England to hear and determine any suit, action or proceedings or settle any disputes arising out of or in connection with this agreement and to enforce any judgment against their respective assets.



19 **EXCLUSION OF THIRD PARTY RIGHTS**

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement no person other than the parties to this agreement shall have any rights under it, nor shall it be enforceable under that Act by any person other than the parties to is.