

SEARCH FIRST DIRECT

STANDARD TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

THESE TERMS AND CONDITIONS APPLY TO ALL SEARCH FIRST DIRECT'S PRODUCTS AND SERVICES UNLESS OTHERWISE EXPRESSLY STATED TO THE CONTRARY.

Search First Direct may vary these conditions or any provision of them at any time upon giving the client not less than 30 days prior notice of any such changes, save that Search First Direct shall have the right to vary any provision of these conditions without giving notice to the client where such change is necessary to comply with any statutory, regulatory or insurance requirement.

1. INTERPRETATION

1.1 In these Conditions, unless the context otherwise requires, the following expressions shall have the following meanings:

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| “Agreement” | means any agreement between Search First Direct and the Client for the provision of the services, incorporating these Conditions and the terms contained in the relevant service plan; |
| “Application” | means a Search First Direct application form for the provision of the services to be signed and submitted by the client to Search First Direct; |
| “Charges” | means Search First Direct's charges for the services as detailed in the application; |
| “Client” | means the person, firm or company whose Application is accepted by Search First Direct; |
| “Conditions” | means these terms and conditions; |
| “Internet” | means the worldwide TCP/IP (Transmission Control Protocol/Internet Protocol) network formed of an interconnection of companies, organisations and institutions, private and public networks; |
| “Keywords” | means the words or phrases selected by the client which are used to search for the website on internet search engines; |
| “Search First Direct” | means Search First Direct of Office 4, 30 Victoria Street Morecambe, Lancashire, LA4 4AJ; |
| “Service Plan” | means a Search First Direct Document (including in its electronic form) as in force from time to time which contains a description of the services, and which may set out additional terms and conditions; |

“Website” means the Client’s website as specified on the application.

1.2 In these Conditions except where the context requires otherwise:

(a) references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced;

(b) references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires;

(c) clause headings are for ease of reference and do not form part of nor shall they affect the interpretation of these conditions.

1.3 References to each party include its permitted assigns and successors by operation of Law.

1.4 The words “include” or “including” shall be construed without limiting the generality of any preceding words.

2. APPLICATION OF TERMS

2.1 Subject to any variation under condition 2.4 any Agreement will be on these Conditions and the terms contained in the Application and Service Plan to the exclusion of all other terms and conditions set out or referred to in any document or other communication used by either party in concluding such an Agreement.

2.2 In the event of any conflict or inconsistency between these conditions and the terms contained in the Application and service plan then the priority of these documents shall be: (a) Application (b) Service plan (c) these conditions.

2.3 No terms or conditions endorsed upon, delivered with, or contained in the Clients purchase order, confirmation of order, specification or other document will form part of the Agreement.

2.4 These conditions apply to the provision of all Search First Directs` Services and any variation to these conditions and any representations about the services shall have no effect unless expressly agreed in writing and signed by a director of Search First Direct. Nothing in this condition will exclude or limit the company’s liability for fraudulent misrepresentation.

2.5 Each Application shall be deemed to be an offer by the Client to receive Services subject to these Conditions

2.6 No Application shall be deemed to be accepted by Search First Direct until written confirmation of the Application is issued by Search First Direct.

2.7 Any quotation is given on the basis the no agreement will come into existence until Search First Direct despatches confirmation of the Application to the

Client. Any quotation is valid for a period of 30 days only from it's date, provided that Search First Direct has not previously withdrawn it.

3. TERM

3.1 Any agreement shall commence on the date of acceptance by Search First Direct of the Application by the Client and shall continue for an initial period of 12 months and annually thereafter unless and until terminated by either party on giving to the other 30 days written notice, such notice to expire no earlier than the end of the initial period.

4. SUPPLY AND DELIVERY OF THE SERVICES

4.1 Search First Direct shall provide the services using all reasonable care and skill in accordance with these conditions and the terms contained in the Application and relevant Service Plan. Any dates specified by Search First Direct for delivery of the Services and intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery will be within a reasonable time.

4.2 Search First Direct reserves the right, in its sole discretion, to refuse to submit any keywords and to review existing Keywords from time to time.

5. CLIENT'S OBLIGATIONS

5.1 The Client shall:

- (a) be responsible for the selection of the services and for the results obtained from them;
- (b) ensure that the terms of its Application and any applicable specification are complete and accurate;
- (c) supply Search First Direct with all such information and material as Search First Direct may reasonably require in order to provide the services;
- (d) comply with all reasonable instructions from Search First Direct.
- (e) Pay the charges in accordance with condition 6 below;
- (f) Not attempt to gain unauthorised access to any part or component of the Services
- (g) Not use or permit others to use the Services for any improper, immoral, fraudulent or unlawful purposes or process or permit others to process material which is offensive, obscene, pornographic, defamatory, menacing or which may (in Search First Directs` judgement) cause annoyance or anxiety to any person or bring Search First Direct or the other Services into disrepute, or process or permit others to process any message or virus which causes or is likely to cause harm to Search First Direct, Search First Directs` Clients, or any third parties` systems, or to transmit any unsolicited advertising material;

- (h) Comply with all applicable legal and regulatory requirements and any applicable licences;
- (i) Not use the Services in a way which could cause it to be interrupted, damaged or otherwise impaired or which violates Search First Direct's rights (including intellectual property rights) or those of any third party (including but not limited to copyright, trademarks, confidence, privacy or other rights);
- (j) Be responsible for any content or material the client processes using the Services; and
- (k) Not knowingly intercept or attempt to intercept any message that passes over Search First Direct's System or attempt to access any unauthorised component of the Services.

5.2 The Client warrants that it has legal capacity and authority to enter into an Agreement with Search First Direct.

6 CHARGES

- 6.1 The Client shall pay the Charges in accordance with the terms and dates specified on the application.
- 6.2 All Charges are exclusive of Value Added Tax and any other applicable Purchase tax, import and all other duties, for which the Client shall be additionally liable at the applicable rate from time to time
- 6.3 Subject to payment terms set out in the Application or as otherwise agreed between the parties in writing from time to time, the Charges and any additional sums payable shall be paid by the Client (together with any applicable Value Added Tax, and without any set-off or other deduction) to Search First Direct in accordance with the payment terms set out in the Application, either in advance of receiving the Services or, where an invoice is raised by Search First Direct on the Client, within 7 days of the date of each invoice.
- 6.4 Time for payment shall be of the essence.
- 6.5 No payment shall be deemed to have been received until Search First Direct has received cleared funds.
- 6.6 All payments payable to Search First Direct under the agreement shall become due immediately upon termination of the relevant Agreement despite any other provision.
- 6.7 The Client shall be entitled to raise a query as to the correctness of an invoice within 5 days of receiving the relevant invoice. Where any part is disputed by Client, the undisputed part shall only be paid, with the balance, if any, to be paid following resolution of the dispute which shall be dealt with following the procedures set out in condition 18.1.
- 6.8 The Client is responsible for notifying Search First Direct of all billing address changes.

6.9 Search First Direct shall be entitled at any time and from time to time to I increase all or any of the Charges by giving the Client not less than 30 days` prior written notice.

7. DATA BACKUP

7.1 Whilst Search First Direct shall use its reasonable endeavours to ensure that backup copies of the website and all Client data contained in the website are made at reasonable intervals, the Client shall be solely responsible for the backup of such data and Search First Direct shall not be liable for any damages, loss, costs or other expenses arising out of or in connection with any loss of data by the Client which are due to the failure of the Client or Search First Direct to back up such data.

7.2 The Client may be charged a nominal fee if the Client or any person acting on the Client's behalf overwrites the work carried out by Search First Direct.

8. TERM AND TERMINATION.

8.1 Either party may terminate the agreement governed by these Conditions with immediate effect on written notice if the other party (the "Defaulting Party"):

(a) commits a material breach or persistent breaches of these Conditions and (in the case of a breach or breaches which is or are remediable) fails to remedy the same within 30 days of receiving a written notice specifying the nature of the breach and requiring the same to be remedied; or

(b) becomes or is deemed to be bankrupt or insolvent or is unable to pay its debts (within the meaning of the insolvency act 1986) or (except for the purposes of a genuine amalgamation or reconstruction) a petition is presented or meeting convened or resolution passed for the purpose of winding up the Defaulting Party or the Defaulting Party enters into a liquidation whether compulsorily or voluntarily or compounds with its creditors generally or has a receiver, administrator or administrative receiver appointed over all or any part of its assets or the Defaulting Party ceases to carry on all or a substantial part of its business.

8.2 Notwithstanding any of its other remedies under these Conditions Search First Direct shall, at its sole discretion, have the right to suspend the Services at any time if:-

(a) The termination of the agreement (for whatever reason) shall not affect the respective rights and liabilities of each of the parties accrued prior to such termination.

9. CONSEQUENCES OF TERMINATION

9.1 Upon the termination of the agreement for any reason whatsoever:-

(a) Search First Direct may cease to promote the Website with immediate

effect; and each party shall on request promptly return any documents or papers relating to the business of the other party (including any of the other party's Confidential Information) which it then has in its possession or control.

- (b) there shall be no refund of any element of the Charges; and
- (c) all provisions of these Conditions which in order to give effect to their meaning need to survive termination of the agreement shall remain in full force and effect thereafter.

10. SEARCH FIRST DIRECTS LIABILITY

- 10.1 Nothing in these Conditions shall exclude or in any way limit Search First Directs Liability for fraud, or for death or personal injury caused by its negligence, or any other liability to the extent the same may not be excluded or limited as a matter of law.
- 10.2 Search First Direct will endeavour to provide the Services in a timely manner but (in particular where Search First Direct is dependent on another operator to provide the Service and or/ due to technical reasons) cannot guarantee to do so and Search First Direct will not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, loss of profits, loss of business, depletion of goodwill and like loss), costs, damages, charges or expenses caused directly or indirectly for any delay in the provision of the Services. The Client further acknowledges that Search First Direct shall in no way be held liable for any service outage or disruption that occurs as a result of any of Search First Directs suppliers' failure to provide a service. For clarification, if any of Search First Directs suppliers enters administration, liquidation, is wound up or for any reason fails to provide a Service to Search First Direct that impacts the Client, Search First Direct shall not be held liable. In the event Search First Direct selects an alternative supplier in order to restore the Services to the Client.
- 10.3 Subject to condition 10.1 Search First Direct shall not be liable under or in connection with these conditions or any collateral contract for any loss of income, loss of data, loss of anticipated savings, loss of profits or contracts or for any indirect or consequential loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract otherwise.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 The Client warrants that it has obtained for itself and for Search First Direct all Necessary consents, approvals and licenses for use of the Website and Keywords (together the "Content").
- 11.2 In the event that the use of the Content infringes the intellectual property rights of Any third party, the Client will immediately replace the infringing part at its own expense with non-infringing material.
- 11.3 The Client agrees to indemnify and keep Search First Direct indemnified and Defend it at its own expense from and against:-

- (a) any and all claims that the Content or any act or omission by the Client, its employees, agents and representatives infringes any copyright, trade mark or other intellectual property rights of any third party;
- (b) any infringement by the Client, its employees, agents and representatives of Search First Directs intellectual property rights howsoever arising and shall compensate Search First Direct for any loss, damages and other expenses arising out of or in connection with such infringement.

12. FORCE MAJEURE

- 12.1 Neither party shall be liable for any delay in performing or failure to perform its obligations hereunder to the extent that and for so long as the delay or failure results from any cause or circumstance whatsoever beyond its reasonable control (an “event of force majeure”), provided the same arises without the fault or negligence of such party and the affected party notifies the other party within two (2) working days of becoming aware of the same of such event of force majeure and the manner and extent to which its obligations are likely to be prevented or delayed, and provided also that the occurrence of any such event of force majeure shall not have the effect of discharging or postponing the affected party’s payment obligations hereunder.
- 12.2 If any event of force majeure occurs, the date(s) for performance of the obligation(s) affected shall be postponed for so long as it is made necessary by the event of force majeure provided that if any event of force majeure continues for a period of or exceeding 30 days, the non-affected party shall have the right to terminate any Agreement governed by these Conditions forthwith on written notice to the affected party. Each party shall use its reasonable endeavours to minimize the effects of any event of force majeure.

13. CONFIDENTIAL INFORMATION AND SECURITY

- 13.1 All information, drawings, specification, documents, contracts, design material and all other data , which either party may have disclosed and may from time to time disclose to the other party relating to its business, clients, prices, services, requirements, the Website, the Services and these Conditions, including and technical specifications (the “Confidential Information”), are proprietary and confidential to the disclosing party.
- 13.2 Each party hereby agrees and undertakes to the other that it will use such Confidential Information and all other data solely for the purposes of these Conditions and it will not, at any time during or at any time after the completion, expiry or termination of any Agreement use or disclose the same whether directly or indirectly, to any third party without the other party’s prior written consent.
- 13.3 Each party further agrees and undertakes that it will not itself or through any subsidiary or agent use, sell, license, sub-license, create, develop or otherwise deal in any Confidential Information supplied to it by the other party or obtained while performing any Agreement.
- 13.4 Each party will ensure that each of its employees, agents, or sub-contractors will comply with the provisions contained within this condition 14.

- 13.5 The provisions of this condition 14 do not apply to any confidential information or data which:-
- (a) is or becomes freely available in the public domain through no default of the receiving party; or
 - (b) is required to be disclosed by any court of competent jurisdiction or statutory or regulatory authority; or
 - (c) is received from a third party which owes no duty of confidentiality in respect of such information.

14. DATA PROTECTION

- 14.1 Each party shall for the duration of any agreement governed by these conditions Comply with the provisions of the Data Protection Act 1998, (including the data protection principles set out in that Act) and any similar or analogous laws, regulatory requirements or codes of practice governing the use, storage or transmission of personal data and shall not permit anything to be done which might cause or otherwise result is a breach by either party of the same.

15. NOTICES

- 15.1 Except as expressly stated herein to the contrary, all notices and other communications required or permitted to be given under these Conditions shall be in writing and shall be delivered or transmitted to the intended recipient's address as specified above or such other address as either party may notify to the other for this purpose from time to time. Any notice shall be treated as having been served on delivery if delivered by hand, two working days after posting if sent by pre-paid registered mail, on delivery if sent by courier and on confirmation of transmission if sent by facsimile or email.

16. ASSIGNMENT AND SUB-CONTRACTING

- 16.1 Either party hereto may only assign any agreement in whole or in part to any third party with the prior written consent of the other party (such consent not to be unreasonably withheld or delayed). For the avoidance of doubt, Search First Direct may and shall, as it deems fit, sub-contract part or all of its obligations under these Conditions.

17. GENERAL

- 17.1 The failure of either party to enforce or to exercise at any time or for any period Of time any term of or any right pursuant to these Conditions does not constitute, and shall not be construed as, a wavier of such term or right and shall in no way affect that party's right later to enforce or to exercise it.
- 17.2 If any term of these Conditions is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from these Conditions and shall in no way affect the legality, validity or enforceability of the remaining terms.
- 17.3 These Conditions contain all the terms agreed between the parties regarding its subject matter and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing. No representation, undertaking or

promise shall be taken to have been given or be implied from anything said or written in negotiations between the parties prior to any agreement governed by these Conditions except as expressly stated in these Conditions. Neither party shall have any remedy in entering into the agreement (unless such untrue statement was made fraudulently) and that party's only remedies shall be for breach of contract as provided in these Conditions.

- 17.4 The relationship of the parties is that of independent contractors dealing at arm's length. Except as otherwise stated in these Conditions, nothing in these conditions shall constitute the parties as partners, joint ventures or co-owners, or constitute either party as the agent, employee or representative of the other, or empower either party to act for, bind or otherwise create or assume any obligation on behalf of the other, and neither party shall hold itself out as having authority to do the same.
- 17.5 The parties shall at the requesting party's reasonable expense do and execute all such further acts and things as are reasonably required to give full effect to the rights given and the transactions contemplated by these Conditions.
- 17.6 A person who is not a party to the agreement has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any term of the agreement.

18. DISPUTES AND GOVERNING LAW

- 18.1 If any dispute arises out of the agreement the parties will attempt to settle it by negotiations. A party may not commence court proceedings until 21 days after it has made a written offer to the other party to negotiate a settlement.
- 18.2 The construction, validity and performance of these Conditions and all aspects of the Agreement shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts to resolve any dispute between them.