



Offline Client Acquisition Solutions
– Technology Services Agreement
– United Kingdom

Contract Details

Company	Name	OPPIZI UK LTD (Oppizi) (Reg. number: 11130231)
	Address	145, City Road, E1CV 1AZ, London, United Kingdom
Client	Name	(the Client)
	Address	
Commencement Date		

Contract Execution

By signing below, you expressly acknowledge that you have read, understood, and taken steps to properly consider your obligations under and the consequences of this Agreement, that you agree to be bound by the terms and conditions of the Agreement, and that you are of legal competence and capacity and are duly authorised to enter into this Agreement with Oppizi.

Name of Authorised Officer for Client

Signature of Authorised Officer for Client

Date of signature

General Conditions

This Agreement ('**Agreement**') constitutes a legal agreement between you ('**you**', the '**Client**') and Oppizi in relation to the provision or facilitation (as appropriate) of the services below.:

- (i) Provision of an offline Client acquisition campaign service through which Clients ('**Clients**') can request the creation of offline marketing campaigns, including the production of physical marketing material and apparel and the provision of miscellaneous other services incidental thereto, but excluding the Distribution Services (the '**Campaign Services**');
- (ii) Provision of a physical marketing material distribution service through which Clients can request the services of independent third-party physical marketing material distribution services providers ('**Distribution Providers**') and who provide to the Clients physical marketing material distribution services (the '**Distribution Services**').

Oppizi can receive and confirm Clients' requests for Distribution Services, issue invoices on behalf of the Distribution Providers and pass on payments to the Distribution Providers as their limited collection agent.

This document constitutes the terms and conditions relating to the Campaign Services and applies to all products and services provided by Oppizi to the Client to the exclusion of any purchase order or other document submitted by the Client to Oppizi.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, unless the context otherwise requires:

Base Intellectual Property means all Intellectual Property owned, created or used by the Client, which is provided to Oppizi during the course of this Agreement.

Business Day means a day on which banks are open for retail banking business in England other than a Saturday or Sunday.

Campaign means an instance of the Campaign Services as set out in a Statement of Work, to be performed by Oppizi in conjunction with Distribution Services provided by Distribution Providers.

Campaign Services has the meaning given to it in preamble of the General Conditions.

Commencement Date means the date determined in accordance with clause 2.

Confidential Information means in the case of each party, all of that party's information which would reasonably be regarded as confidential, disclosed or made available to the other party before or after the Commencement Date, including information relating to its business, Clients, suppliers, products, databases, services, strategies, or plans, but excluding information which:

- (a) the other party can prove it possessed before the relevant information was disclosed or made available to it by or on behalf of the disclosing party;
- (b) is lawfully acquired prior to the date of disclosure under this Agreement by the other party from a third person without restrictions as to its use or disclosure; or
- (c) is in or becomes part of the public domain other than as a result of the breach by the other party of this Agreement.

Contract Material means all materials and deliverables provided by Oppizi to the Client or created or developed by Oppizi in the course of providing the Services, whether before or after the date of this Agreement. Contract Material shall exclude any deliverables arising out of the Services and any material that includes Base Intellectual Property.

CPI means the Consumer Price Index (all items) published by the Office for National Statistics in the United Kingdom and, if that index ceases to be published, an alternative consumer price index nominated by Oppizi.

Client means the company, person or other entity named as the Client in the Statement of Work.

Distribution Provider has the meaning given to it in preamble of the General Conditions.

Distribution Services has the meaning given to it in preamble of the General Conditions.

Fees means the fees payable by the Client to Oppizi for provision of the Services as specified in the Statement of Work and includes any expenses or disbursements payable by the Client as required by the Statement of Work, but excludes the Distribution Fees.

Force Majeure means a circumstance beyond the reasonable control of a party which results in the party being unable to observe or perform on time an obligation under this Agreement.

Group Company means in relation to either party, its Subsidiaries or Holding Companies from time to time and any Subsidiary of any Holding Company from time to time.

Holding Company means “holding company” as defined in section 1159 of the Companies Act 2006.

Insolvency Event means:

- (a) a party enters into any arrangement between itself and its creditors;
- (b) a party ceases to be able to pay its debts as they become due;
- (c) a party ceases to carry on business;
- (d) a mortgagee enters into possession or disposes of the whole or any part of the party's assets or business;
- (e) an order is made (and not set aside within 28 days) or a resolution passed for the winding-up or dissolution of a party; or
- (f) a receiver, a receiver and manager, a trustee in bankruptcy, an administrator, a liquidator, a provisional liquidator or other like person for the party's applicable place of incorporation is appointed over the whole or any part of the party's assets or business.

Intellectual Property Rights means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of know-how, trade secrets, copyright, trade marks, designs, patents and all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Invoice has the meaning given to it in clause 7.2(a).

Material includes property, information and the subject matter of any category of intellectual property.

Milestone Dates means, in respect of a specific task which is to be performed by Oppizi as part of the Services, the target date for the performance of the relevant task.

Mission means an instance of Distribution Services to be provided to the Client by a Distribution Provider.

Moral Right means each and every ‘moral right’ as defined in the Copyright, Designs and Patents Act 1988.

Price means the price payable by the Client to Oppizi for provision of the Products and/or Services as specified in the Statement of Work and also includes any expenses payable by the Client as required by the Statement of Work.

Products means any goods Oppizi provides to the Client, whether as set out in a Statement of Work or otherwise.

Project Plan means the document (developed by Oppizi where required by the Statement of Work) which specifies the services, materials and personnel to be contributed by each party and the responsibilities of each party relating to the Services to be provided under this Agreement. A Project Plan will only be developed where required by the Statement of Work.

Statement of Work means the written Statement of Work, including a quotation, scope of works or estimate, which has been provided to the Client, which describes the Products and/or Services to be supplied by Oppizi to the Client under this Agreement.

Service means any services which the Statement of Work requires Oppizi to provide to the Client or, in the absence of a Statement of Work, which Oppizi provides to the Client, and includes the Campaign Services and the facilitation of the Distribution Services But excludes the actual performance of the Distribution Services.

Subsidiary means “subsidiary” as defined in section 1159 of the Companies Act 2006.

Taxes means all taxes, charges, duties and similar imposed by a government or statutory body relating to the supply or use of goods or services or otherwise arising out of this Agreement including sales tax, goods and services tax, value added tax, fringe benefits tax, undistributed profits tax, financial institutions duty, stamp duties and any interest or penalty imposed in connection with any of the preceding items but does not include income or capital gains tax.

Third Party Material means Material owned by a third party that is included, embodied in or attached to the Contract Material.

VAT means Value Added Tax as governed by the Value Added Tax Act 1994, associated legislation, regulations and statutory instruments which may be in force from time to time in the United Kingdom.

Oppizi means Oppizi UK Ltd.

Oppizi Material means all Material created by Oppizi prior to the commencement of this Agreement.

Term has the meaning provided by clause 3.

1.2. Interpretation

In this Agreement:

- (a) The singular includes the plural and vice versa.
- (b) "Including" and similar expressions are not words of limitation.
- (c) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have corresponding meanings.
- (d) If something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day.
- (e) Headings are for ease of reference and do not affect the construction of this Agreement.
- (f) Money amounts are stated in Pounds Sterling unless otherwise specified.
- (g) The words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication including electronic communication using DOCUSIGN or XERO or equivalent capable of being read by the recipient.

1.3. Interpretation – order of precedence

This Agreement is comprised of the following documents which apply in the following order of precedence:

- (a) a Statement of Work;
- (b) a Project Plan (if applicable); and
- (c) these Standard Terms and Conditions, with the result that any inconsistency between these documents will be resolved in favour of the earlier listed document.

2. COMMENCEMENT DATE

2.1. Client's acceptance of Statement of Work

The Commencement Date is earliest of the date noted in the Contract Details page of this Agreement, the Client signing a Statement of Work, or otherwise notifying Oppizi of its acceptance of the Statement of Work, or otherwise accepts Products and/or Services provided by Oppizi.

3. TERM

The Agreement commences on the Commencement Date and will continue until the earlier of:

- (a) the parties having completed the performance of their obligations; or
- (b) this Agreement is terminated in accordance with clause 14.

4. PROJECT PLAN

- (a) If the Statement of Work requires the development of a Project Plan, the parties must develop and agree to the Project Plan before Oppizi provides any of the applicable Products and/or Services.
- (b) The Client and Oppizi will consult with each other and use reasonable efforts to develop the Project Plan.
- (c) The Client will pay Oppizi for the development of the Project Plan in accordance with the Statement of Work, unless otherwise agreed in writing.
- (d) The Project Plan will describe:
 - (i) the obligations of each party and the resources and facilities which will be provided by each party as required for the supply of the Products and/or the performance of the Services;
 - (ii) if applicable, the Milestone Dates applicable to the supply of the Products and/or the performance of the Services; and
 - (iii) any other details required by the Statement of Work.
- (e) Once the Project Plan has been developed and agreed the parties must comply with the Project Plan, unless varied in writing.

5. SERVICES – GENERAL OBLIGATIONS

5.1. Appointment

- (a) Nothing in this Agreement requires Oppizi to provide any Services to the Client at any time when:
 - (i) the Client has not paid for Products and/or Services previously provided by Oppizi for which payment is then due; or

(ii) the Client has breached this Agreement and that breach has not been duly remedied.

5.2. Personnel and facilities

- (a) The Client will provide sufficient, qualified personnel capable of performing all of its duties and obligations under the Statement of Work and Project Plan (as applicable) and this Agreement and will provide reasonable and necessary access to its relevant personnel.
- (b) The Client will provide Oppizi with access to the information, equipment and facilities that Oppizi reasonably requires to perform the Services.

5.3. Provision of Services

- (a) Oppizi will provide the Client with all other services requested by the Client and set out in the Statement of Work in accordance with the terms of this Agreement.

6. INTELLECTUAL PROPERTY

- (a) The Client grants Oppizi a royalty free and worldwide licence (with right to sub-licence the same) to use or allow the use of Base Intellectual Property solely for the purpose of fulfilling Oppizi's obligations under a particular Statement of Work and only for the term of such Statement of Work.
- (b) Unless expressly specified otherwise in the Statement of Work, Oppizi will own all Intellectual Property Rights in all Contract Material.
- (c) The Client assigns to Oppizi any rights the Client has the Contract Material.
- (d) Oppizi grants to the Client (subject to payment of all amounts payable under this Agreement) a royalty free, non-transferable, perpetual licence to use the material and the deliverables for the purposes of the project or business activity to which the Products and/or Services relate.
- (e) To the extent any personnel of the Client have any moral rights in respect of any Contract Material, the Client must procure that such personnel give a moral rights consent to Oppizi, and its successors and nominees, doing or omitting to do anything which, but for that moral rights consent would constitute a breach of that person's moral rights.
- (f) If Oppizi is required to communicate the brands of the Client, the Client hereby consents to the use of the Client's logo for Oppizi's marketing collateral including but not limited to website, social media, corporate profile and printed materials. Oppizi will ensure that such use is in accordance with the Client's instructions.
- (g) Oppizi shall retain all masters, drafts, rushes and other preparatory material and the Client will not be entitled to such originals. The Client may request duplicates of these materials at additional cost.
- (h) The Client appoints Oppizi as agent to procure any use of any third party intellectual property required for the performance of this Agreement.

7. PRICE AND FEES

7.1. Price

- (a) The Client must pay Oppizi the Price and/or Fees in respect of the Services in accordance with this Agreement and the Statement of Work. Prices and/or Fees and expenses are due and payable upon receipt by the Client of a valid invoice from Oppizi.
- (b) The Price and/or Fees are exclusive of amounts in respect of value added tax (VAT). The Client shall, immediately upon receipt of a valid VAT invoice from Oppizi, pay to Oppizi any additional amounts in respect of VAT as are chargeable in respect of the Services.

7.2. Invoice and payment terms

- (a) Subject to the Statement of Work, Oppizi will invoice the Client for the Price in advance and will provide the Client with a valid tax invoice (**Invoice**).
- (b) The Client must pay Oppizi the amount invoiced immediately upon receipt of the Invoice, unless provided otherwise in a Statement of Work or otherwise in writing.

- 7.3.** Unless expressly stated otherwise in this agreement, all amounts payable are exclusive of VAT. If VAT is payable on any supply made under this agreement by Oppizi, for which the consideration is not expressly stated to include VAT, the Client agrees to pay Oppizi an additional amount equal to the VAT at the same time that the consideration for the supply, or the first part of the consideration for the supply (as the case may be), is to be provided. The Client agrees to provide information that Oppizi may reasonably request in order for Oppizi to be able to comply with its tax reporting obligations including, but not limited to, the Client's VAT registration number. All payments are non-refundable except as may be expressly provided otherwise herein, or required by UK Consumer Law.

7.4. Out of scope services

Where Oppizi provides the Client with services that are outside the scope of the services to be provided by Oppizi as set out in a Statement of Work, the Client must pay a further Fee or Oppizi's standard hourly rates for providing that service, which standard hourly rates may be as amended by Oppizi from time to time, or which may otherwise be set out in a Statement of Work.

7.5. Disputed invoices

If the Client wishes to dispute an Invoice it must:

- (a) pay Oppizi all parts of the Invoice which are not the subject of a bona fide dispute; and
- (b) give Oppizi notice of the dispute and the reasons why the Client disputes the relevant Invoice,

before the due date for payment of the Invoice, after which time if the Client does not dispute the Invoice in the manner specified in this clause 7.5 the Client may not thereafter dispute that Invoice and must pay that invoice immediately upon demand.

7.6. Default in payment

If the Client fails to pay any amount payable under this Agreement by the due date then, except where the amount has been validly disputed pursuant to clause 7.4, Oppizi may (without prejudice to any other remedies to which it is entitled):

- (a) charge the Client interest on the amount due and not paid, for the duration that the payment is outstanding by the Client, at the rate of 2% per month calculated daily; and/or
- (b) suspend performance of Oppizi's obligations under this Agreement without any liability to the Client for any loss or damage suffered or incurred in respect of the suspension.

7.7. Other rights and obligations not affected

The exercise by Oppizi of any of Oppizi's rights under clause 7.5 does not affect:

- (a) the Client's obligations; or
- (b) any other rights or remedies Oppizi may have in relation to the default by the Client,

under this Agreement or any other agreement between Oppizi and the Client.

7.8. Variation

- (a) The Price and Fees are subject to variation as set out in this clause 7.7.
- (b) If the Services are provided during a period greater than 12 months, the Price in the Statement of Work may be subject to annual adjustment on the first anniversary of the Commencement Date, and on each anniversary of the Commencement Date after that, by Oppizi giving the Client written notice. Any increase in the Price will be calculated in accordance with the greater of:

the change in the CPI between the relevant anniversary date and the date on which the Price were last set or varied; or 5%

- (c) No other variation of this Agreement shall be effective unless it is in writing and signed (including electronically via DOCUSIGN or an equivalent provider) by the parties (or their authorised representatives).

7.9. Cash bonus on conversions

In addition to the Price and Fees payable, a Statement of Work will enable the Client to opt in to payment of a bonus to Distribution Providers. The bonus amount payable will be set as a percentage of the Distribution cost payable by the Client and will be payable by the Client at the same time the Price. Oppizi will collect the bonus payment contribution as a collection agent of the Distribution Providers and the total Bonus amount payable will be paid to the Distribution Providers. Bonus is payable in advance and is based on agreed campaign conversion rates being achieved.

7.10. Expenses

The Client must pay Oppizi or reimburse Oppizi for any expenses which the Client is required to pay or incur under the Statement of Work or otherwise under this Agreement in order to provide the Products and/or Services, provided such expenses are agreed in advance, such an agreement not to be unreasonably withheld or delayed by the Client.

8. CONFIDENTIAL INFORMATION

8.1. Acknowledgement of confidentiality

Each party (**Recipient**) acknowledges that:

- (a) all the Confidential Information of the other party (**Discloser**) is secret and confidential to the Discloser; and

- (b) any unauthorised use, reproduction or disclosure of the Confidential Information may cause loss, damage or expense to the Discloser.

8.2. Obligation of confidentiality

The Recipient must (except as may be required by law or with the Discloser's prior written consent):

- (a) maintain the secrecy and confidentiality of the Confidential Information;
- (b) not divulge or disclose any of the Discloser's Confidential Information to any other person, firm, corporation or entity;
- (c) only use the Discloser's Confidential Information where it is necessary to do so to enable the supply or use of the Products and/or Services;
- (d) refrain from copying any of the Discloser's Confidential Information, or attempting to do the same, except where necessary to do so to enable the supply or use of the Products and/or Services; and
- (e) immediately notify the Discloser of any actual or suspected unauthorised use, reproduction or disclosure of the Discloser's Confidential Information.

8.3. Disclosure required by law

If the Recipient is required by law to disclose the Discloser's Confidential Information:

- (a) the Recipient will promptly give the Discloser written notice specifying the legal requirement and the Confidential Information to be disclosed; and
- (b) the Recipient will use best endeavours to arrange for disclosure of the relevant Confidential Information in a manner which safeguards the confidentiality of the information disclosed.

8.4. Injunctions

The Recipient acknowledges and agrees that a breach of this Agreement may cause the Discloser to suffer loss, damage and expense for which damages may not be adequate compensation and may be difficult to ascertain and that the Discloser may immediately seek to restrain any actual or threatened breach of this Agreement by injunction or any similar remedy.

9. RESTRICTIVE COVENANTS

- (a) During the 12 months after the date on which Oppizi last provided any Services to the Client under this Agreement, the Client will not:
 - (i) Other than as a customer of such a trade or business, carry on or be concerned, engaged or interested directly or indirectly in any capacity whatsoever in any trade or business which competes with the business carried on by Oppizi;
 - (ii) directly or indirectly endeavour to entice away from Oppizi or solicit or accept the business of or deal with any person, firm or Oppizi who is or was a Client or Client or prospective Client of Oppizi or a Group Company during the term of this Agreement; or
 - (iii) directly or indirectly solicit or seek to entice away from Oppizi any person who is or was a director, employee or consultant of Oppizi whether or not such person would commit any breach of this Agreement by reason of so leaving the service of Oppizi or otherwise; or
 - (iv) directly or indirectly employ or engage or induce, or seek to induce to leave the service of Oppizi or any person who is or was a director whether or not such person would commit any breach of their Agreement by reason of so leaving the service of Oppizi or otherwise.
- (b) The Client agrees that if it breaches clauses 9(a)(iii) or (iv) of this Agreement, it will pay to Oppizi liquidated damages in an amount equal to 30% of the annual salary or annualised contracted amount (if a contractor) at the time of departing Oppizi of such person referred to in those clauses. The Client acknowledges and agrees that such liquidated damages are a reasonable and genuine pre-estimate of the losses Oppizi would sustain in the event of such breach. For the avoidance of doubt, nothing in this clause will prevent the Client engaging someone who responds to a job advert which was not specifically targeted at those individuals covered in clause 9(a)(iii) above.
- (c) The Client shall not:

Decompile, disassemble, reverse engineer or otherwise attempt to derive the source code or underlying technology, methodologies or algorithms of the Services and shall not copy or otherwise permit the manufacture of the Intellectual Property,

except to the extent allowed by the laws in which Oppizi presently operates or operates at any time in the future including, but not limited to, Australia, France, New Zealand, United Kingdom, USA, Canada, Belgium, Italy, Spain, and Hong Kong.

- (d) At any time after the Termination of this Agreement, the Client will not represent itself as being in any way currently connected with or interested in the business of Oppizi.
- (e) The Client agrees that each of these separate provisions is a fair and reasonable restraint of trade that goes no further than reasonably necessary to protect Oppizi's goodwill and business.
- (f) Each of the restrictions is intended to be separate and severable. If any restriction is held to be unreasonably wide but would be valid if part of the wording were deleted, such restriction will apply with the necessary wording deleted to make it valid.
- (g) The restrictions in this clause 9 apply to each party acting directly or indirectly and on its own behalf or on behalf of, or in conjunction with, any firm, company or person.

10. PRIVACY

- (a) In performing their respective obligations under this Agreement, each party will comply with applicable privacy and data protection laws. In respect of any data to which the Client gives Oppizi access or possession for the purpose of providing the Services, the Client warrants that Oppizi's access or possession (as applicable) for that purpose complies with applicable privacy and data protection laws.
- (b) When accessing or handling the Client's data, Oppizi will comply with the Client's applicable reasonable policies that have been disclosed to Oppizi in writing.

11. IMPLIED TERMS

11.1. Exclusion of implied terms

Any representation, warranty, condition, guarantee or undertaking that would be implied in this Agreement by legislation, common law, equity, trade, custom or usage is excluded to the maximum extent permitted by law.

11.2. Non-excludable rights implied by statute

Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, right or remedy conferred on the Client by relevant and applicable laws in England and Wales in force from time to time that cannot be excluded, restricted or modified by Agreement.

11.3. Liability for breach of non-excludable rights

To the fullest extent permitted by law, the liability of Oppizi for a breach of a non-excludable guarantee referred to in clause 11.2 is limited, at Oppizi's option, to:

- (a) in the case of goods, any one or more of the following:
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods; or
 - (iv) the payment of the cost of having the goods repaired; or
- (b) in the case of services:
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

11.4. Survival of clause

Despite any other provision of this Agreement, this clause 11 survives the expiry or termination of this Agreement.

12. LIABILITY

12.1. Limitation of liability

Neither party may benefit from the limitations and exclusions set out in this clause 12.1 and clause 12.2 in respect of any liability arising from its deliberate default.

To the maximum extent permitted by applicable law, and unless otherwise expressly provided in this Agreement, Oppizi will be under no liability to the Client or any other person in respect of:

- a) any loss or damage of any kind that is directly or indirectly caused by or results from any wrongful, wilful or negligent act or omission of the Client or any of the Client's officers, employees, agents or contractors; and,
- b) Any innocent negligent act or omission by Oppizi;
- c) any indirect, punitive, exemplary, incidental, special or consequential loss or damage, loss of profits or anticipated profits, economic loss, loss of business opportunity, loss or corruption of data or loss or damage resulting from wasted management time, suffered or incurred by the Client or any third party arising out of this agreement, whether based on contract, tort or otherwise, irrespective of whether:
 - (i) the loss or damage is caused by or relates to breach of contract, statute, tort (including negligence) or otherwise; or
 - (ii) the Client or any other person was previously notified of the possibility of the loss or damage.

12.2. Maximum liability

Subject to clause 8, the maximum aggregate liability of either party for all proven losses, damages and claims arising out of this Agreement, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of the amounts actually paid by the Client to Oppizi under the Statement of Work in relation to the particular Product or Service which was responsible for or connected with the relevant loss, damage or claim.

Oppizi shall not be held liable for any criminal or unlawful acts committed by Independent Contractors during the performance of their duties. Any legal claims arising from such actions are the sole responsibility of the Independent Contractor or, if applicable, the Client, who is responsible for managing any disputes with the Independent Contractors.

12.3. No reliance on representations

- (a) The Client warrants that it has not relied on any representation made by Oppizi which has not been stated expressly in this Agreement, or relied upon any descriptions, illustrations or specifications contained in any document including websites or publicity material produced or provided by Oppizi.
- (b) The Client acknowledges that to the extent Oppizi has made any representation which is not otherwise expressly stated in this Agreement, the Client has been provided with an opportunity to independently verify the accuracy of that representation.

12.4. Indemnity

The Client will at all times indemnify and hold harmless Oppizi and its officers, employees and agents (but excluding Distribution Providers) ('**those indemnified**') from and against any liabilities, costs, expenses, damages and losses, (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) incurred or suffered by any of those indemnified arising from any proceedings against those indemnified where such loss or liability was caused by (a) any claim made against Oppizi for actual or alleged breach of any third party's IPR on the Base Intellectual Property, or (b) the enforcement by Oppizi of this agreement, or (c) any claim made against Oppizi arising from the Client's breach of any laws and regulation applicable to this Agreement or (d) any wilful, unlawful or negligent act or omission of, or negligent performance or failure or delay in the performance of this agreement by the Client its employees, agents or subcontractors.

If a payment due from the Client under this clause is subject to tax (whether by way of direct assessment or withholding at its source), Oppizi shall be entitled to receive from the Client such amounts as shall ensure that the net receipt, after-tax, to Oppizi in respect of the payment is the same as it would have been where the payment not subject to tax.

Nothing in this clause shall restrict or limit Oppizi's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this indemnity.

Liability under this indemnity is limited under clause 12.4 (save that it shall be unlimited in relation to reasonable legal costs and expenses incurred by Oppizi).

13. TERMINATION

13.1. Termination by Oppizi

Without limiting the generality of any other provision in this Agreement, Oppizi may suspend or terminate (or suspend then subsequently terminate) its provision of all or any of the Services under any Statement of Work and this Agreement immediately by notice in writing if:

- (a) the Client fails to pay an amount owing under this Agreement within 10 Business Days of a written reminder that it is overdue;
- (b) the Client is in breach of any term of this Agreement not relating to the payment of money and that breach is not remedied within 14 Business Days of notification by Oppizi;
- (c) the Client suffers, experiences or commits an Insolvency Event;
- (d) the Client, being a partnership, dissolves, threatens or resolves to dissolve or is in jeopardy of dissolving; or
- (e) the Client, being a natural person, dies or becomes incapacitated.

13.2. Termination by Client

- (a) The Client may terminate this Agreement immediately by notice in writing if:
 - (i) Oppizi is in breach of any term of this Agreement and that breach is not remedied within 14 Business Days of notification by Oppizi; or
 - (ii) Oppizi suffers or commits an Insolvency Event.
- (b) The Client may terminate this Agreement in any other event by giving 30 days' notice in writing to Oppizi, (a), however no termination shall terminate works pursuant to an active SOW.

13.3. Consequences of termination

If a notice of termination is given under clause 13.1 or clause 13.2, all monies payable to Oppizi under this Agreement or which would have become payable but for that termination will, to the extent permitted by law, become immediately due and payable, and:

- (a) each party may repossess any of its property in the possession, custody or control of the other party;
- (b) Oppizi may retain any monies paid in respect of Services already provided by Oppizi at the time of notice of termination or, in its capacity as limited collection agent, in respect of Distribution Services already provided by Distribution Providers at the time of notice of termination;
- (c) If during the performance of this Agreement the Client had requested additional services not initially agreed at the date when this Agreement was entered into, and Oppizi agreed to perform and performed the said services for a fee or charge then Oppizi may charge for those additional services so performed;
- (d) Oppizi may charge for all costs, disbursements and expenses, incurred in expectation of performing all of the requirements of the Statement of Work including the cost of any Products and/or Services purchased on behalf of or for on-supply to the Client prior to the termination date (except to the extent the Client has already paid the applicable Price for those items);
- (e) each party may require the other party to deliver to it or erase or destroy, or procure the delivery, erasure or destruction (as applicable), all materials containing its Confidential Information and certify its compliance with these obligations; and
- (f) each party may pursue any additional or alternative remedies provided by law.

13.4. Credit note

- (a) If the Client terminates this Agreement or directs that the provision of the services by Oppizi be suspended, any prepaid but unexpended fees shall be retained by Oppizi and it shall provide a credit note which shall be valid for a period of 12 months from the termination date;
- (b) The credit note may be applied to distribution costs, travel costs, permit costs & bonus costs - Printing costs are non-refundable once digital proofs have been approved by the Client;
- (c) An unused credit note shall expire at the end of the 12 month period.

14. FORCE MAJEURE

- (a) Neither party will not be liable for any delay or failure to perform its obligations under a Statement of Work or this Agreement if that delay is due to Force Majeure.
- (b) If a delay or failure of either party to perform its obligations is caused or anticipated due to Force Majeure, the performance of that party's obligations will be suspended.
- (c) If a delay or failure by either party to perform its obligations due to Force Majeure exceeds 60 days, either party may immediately terminate the Agreement on providing notice in writing to the other party, in which event the defaulting party will not be deemed to have breached this Agreement.
- (d) If this Agreement is terminated pursuant to clause 14(c), Oppizi will refund money previously paid by the Client under this Agreement for the Services which were not provided due to Force Majeure.
- (e) For the avoidance of doubt, compliance with a Public Health Order, Government decree or similar rule, regulation or requirement in response to the Covid-19 Pandemic which results in a delay shall not be a Force Majeure Event giving rise to a right of cancellation under clause 14. In the event of such delay, any payment made by the Client shall be held by Oppizi as a credit to the client for all non-executed costs and applied to the Campaign costs. The campaign shall commence as soon as practicable once permitted and credit held shall be applied.

15. DELAY

- (a) This clause 15 (a) and clause 15 (b) below do not apply to the payment terms referred to in Clause 7 or in this Agreement or SOWs generally. Without limiting clause 14, neither party will be responsible for any delays (or costs and losses arising from delays) which occur during the course of the Services and which arise from any non-compliance by the other party with this Agreement, an applicable Statement of Work or Project Plan, or by the late supply or provision of instructions and information by the other party, or failure by the other party to provide access to the requisite personnel and/or facilities.
- (b) Each party will be entitled to an extension of time in respect of any schedule, deadline or milestone equal to the duration of any delay caused by Force Majeure or a cause specified in clause 14(a).

16. SUB-CONTRACTS

- (a) Oppizi may subcontract the performance of all or part of its obligations under this Agreement.
- (b) Oppizi may, without the consent of the Client, engage individuals on a subcontract or consultancy basis, whether or not operating under a corporate structure, to assist in the provision of the Services under this Agreement.

17. ENTIRE AGREEMENT

- (a) These terms and conditions, Statement of Work and Project Plan (as applicable) constitute this Agreement which is the entire agreement between the parties for the supply of the Products and/or Services and supersedes all prior representations, statements and understandings or undertakings, whether verbal or in writing.
- (b) No modification or alteration of any provision of this Agreement will be valid except those in writing signed by each party as set out in clause 24.

18. ASSIGNMENT

Neither the benefits nor burdens of this Agreement may be assigned, transferred, licensed or sub-licensed by the Client without the prior written consent of Oppizi which shall not be unreasonably withheld or delayed. Either party may assign or novate the benefits or burdens of this Agreement to a Group Company or other entity under its common ownership or the purchaser of all or part of its business.

19. WAIVER

- (a) No right under this Agreement will be deemed to be waived except by notice in writing signed by each party.
- (b) A waiver by either party under clause 19(a) will not prejudice its rights in respect of any subsequent breach of this Agreement by the other party.
- (c) Subject to clause 19(a), any failure by a party to enforce any clause of this Agreement, or any forbearance, delay or indulgence granted by one party to the other, will not be construed as a waiver of that party's rights under this Agreement.

20. RIGHTS

Any express statement of a right of either party under this Agreement is without prejudice to any other right of that party expressly stated in this Agreement or existing at law.

21. SURVIVAL

The covenants, conditions and provisions of this Agreement which are capable of having effect after the expiration of the Term or termination will remain in full force and effect following the expiration of the Term or termination.

22. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws in force in England and Wales, and the parties irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales in respect of all matters arising out of or relating to this Agreement, its performance or subject matter.

23. NOTICES

- (a) Notices under this Agreement may be delivered by hand, by mail or by e-mail to the addresses specified in the Statement of Work.
- (b) Notices will be deemed given:
 - (i) in the case of hand delivery, upon delivery;
 - (ii) in the case of post, 3 days after posting;
 - (iii) in the case of e-mail, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 36.2(c), business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt..

- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

24. VARIATION

- (a) The provisions of this Agreement may not be varied, except by agreement in writing signed by the parties.
- (b) If either party (the '**Proposing Party**') wishes to vary the Agreement:
- (i) the Proposing Party will submit a copy of the proposed variations to the other Party (the '**Receiving Party**'), specifying a reasonable period in which the Receiving Party is to provide written notice of acceptance or rejection of the proposal;
 - (ii) if the Receiving Party accepts the variations, the Agreement will be deemed to be so amended from the date of acceptance; and
 - (iii) if the Receiving Party rejects the proposed variations, each party will perform the Agreement in accordance with the unvaried terms.

25. GENERAL

25.1. Severability

Any provision of this Agreement which is invalid in any jurisdiction must, in relation to that jurisdiction:

- (a) be read down to the minimum extent necessary to achieve its validity, if applicable; and
- (b) be severed from this Agreement in any other case,

without invalidating or affecting the remaining provisions of this Agreement or the validity of that provision in any other jurisdiction.

25.2. Further assurances

A party, at its own cost and within a reasonable time of being requested by another party to do so, must do all things and execute all documents which are reasonably necessary to give full effect to this Agreement.

25.3. No adverse construction

This Agreement is not to be construed to the disadvantage of a party because that party was responsible for its preparation

25.4. No right of set-off

Unless this Agreement expressly provides otherwise, a party has no right of set-off against a payment due to another party.

25.5. Counterparts

If this Agreement consists of a number of counterparts, each is an original and all of the counterparts together constitute the same document.