

Charity Digital Mail

TERMS AND CONDITIONS FOR THE SUPPLY OF CHARITY DIGITAL MAIL SERVICES

This document sets out the terms and conditions of the contract (**Conditions**) between (1) the Customer, whose details are set out on the Order Form (**Customer/you**) and (2) Charity Digital Trust Limited, trading as "Charity Digital" whose registered office is at 113-115 Fonthill Road, 2nd Floor, London N4 3HH (registered in England and Wales under Company No.06902258) (**Charity Digital/us**).

These Conditions govern your use of the Charity Digital Mail system and services. By using the services, you confirm that you accept these Conditions and that you agree to be bound by them. You may not use the site or services unless you agree to be bound by these conditions including for the avoidance of doubt our terms of payment.

THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS REGARDING LIMITATION OF LIABILITY IN CLAUSE 8.

INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 5.

Commencement Date: the date on which Charity Digital issues acceptance of the Order in accordance with clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 15.7.

Contract: the contract for the supply of Services between Charity Digital and the Customer, consisting of the terms set out in Order Form and these Conditions.

Customer: the person or firm which comes into effect when the Order is accepted under clause 2.2, who purchases Services from Charity Digital.

Data Controller: shall have the same meaning as set out in the UK GDPR and the Data Protection Act 2018.

Data Processor: shall have the same meaning as set out in the UK GDPR and the Data Protection Act 2018.

Data Protection Legislation: the UK General Data Protection Regulation (UK GDPR), the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner's Office (ICO).

Data Subject: shall have the same meaning as set out in the UK GDPR and the Data Protection Act 2018.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all

applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for Services as set out in the Service Agreement.

Order Form: means the Service Agreement form confirming that the Customer wishes to purchase services and be billed according to the level of services used.

Personal Data: shall have the same meaning as set out in the UK GDPR and the Data Protection Act 2018.

Process: has the meaning given to it under the Data Protection Legislation but, for the purposes of this Contract, it shall include both manual and automatic processing and "Processing" and "Processed" shall be construed accordingly.

Regulatory Body: those government departments and regulatory, statutory and other entities, committees and bodies, which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the Customer.

Services: the provision to the Customer of data processing and other services known as "Charity Digital Mail", a dotdigital for nonprofits platform, comprising the following: a) providing the web-based service; b) providing the facilities for the Customer to send emails to Data Subjects who have consented to the Customer sending them emails; c) providing facilities for the Customer to export Personal Data; and d) where purchased by the Customer, the provision of Support Services as defined below.

Support Services: the support and assistance services made available by Charity Digital to the Customer from time to time, as more particularly described in clause 3.11 below, and subject to the Reasonable Use Policy set out in clause 4.3.

Site: means Charity Digital's website at charitydigital.org.uk/.

Software: means Charity Digital's data management and manipulation web-based platform (Charity Digital Mail, powered by dotdigital's white-labelled platform).

Specification: the description of the pricing Services available upon request.

Charity Digital Mail calculator: the billing calculator which calculates the pricing of email sends according to the level of usage in any 12 month period. Available upon request.

Working Hours: 9.00am to 5.00pm, Monday to Friday UK local time excluding statutory holidays in England and Wales.

1.2 Construction. In these Conditions, the following rules apply:

- (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) as defined by the UK GDPR;
- (b) a reference to a party includes its personal representatives, successors or permitted assigns.
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by these Conditions including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) a reference to writing or written includes emails.

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when Charity Digital issues acceptance of the Order at which point the Contract shall come into existence (Commencement Date).

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Charity Digital which is not set out in the Contract.

2.4 Any samples, drawings, descriptive matter or advertising issued by Charity Digital, and any descriptions or illustrations contained in Charity Digital's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract nor have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any quotation given by Charity Digital shall not constitute an offer and is only valid for a period of 20 Business Days from the date of that quotation.

3. SUPPLY OF SERVICE

3.1 Charity Digital shall supply the Services to the Customer in accordance with the Specification in all material respects.

3.2 Charity Digital engages with dotdigital as a Processor with responsibility for providing the platform used for the provision of this contract without transferring any personal data outside of the UK or any country benefiting from a UK adequacy regulation.

3.3 Charity Digital shall inform the Customer at least 30 days in advance of engaging with any additional Processor involving the Customer's data. The Customer shall have the right to object to the engagement of any such additional Processor within that 30-day period by notifying Charity Digital in writing. Charity Digital will ensure that any additional Processors that it engages with shall provide services to data protection standards that are not less than those contained in these Conditions.

3.4 Charity Digital does not warrant that the Services will be uninterrupted, error, bug or virus free or that the delivery of emails will be without delay. Charity Digital will use reasonable endeavours to maintain an uninterrupted service during Working Hours.

3.5 It may be necessary for Charity Digital to suspend the Services temporarily in whole or in part from time to time to carry out maintenance. Charity Digital will use its reasonable endeavours to provide the Customer with at least 48 hours' notice of temporary suspensions of the Services and to ensure that any scheduled and planned maintenance or repair work is carried out outside of Working Hours in order to minimise disruption to the Services provided to the Customer, however Charity Digital reserves the right to allow maintenance or repair work to be carried out at any time. Services may also be suspended in whole or in part where Charity Digital or any third party host is obliged to comply with an order, instruction or request of government, a court or other competent administrative authority or an emergency service organisation. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise due to a suspension of Services under this clause 3.5.

3.6 Whilst Charity Digital will use its reasonable endeavours to do so, it cannot guarantee the delivery of emails to any recipient under the Services as it is dependent upon accurate and up to date email addresses, upon suitable internet availability and connectivity, on

various anti-spam and junk mail policies adopted by recipient email service providers as well as restrictions regarding the content, wording and graphics of an email. Charity Digital will use reasonable endeavours to assist the Customer with methods to maximise the delivery rate of emails, however Charity Digital makes no representations or warranties whatsoever about the speed or number of emails sent that will be delivered to recipients. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise under this clause 3.6.

3.7 Charity Digital will use all reasonable endeavours to meet any performance dates specified in the Order Form, but any such dates will be treated as estimates only and time shall not be of the essence for performance of the Services.

3.8 Charity Digital shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Charity Digital shall notify the Customer of any such event.

3.9 Without prejudice to its other rights in these Conditions, Charity Digital reserves the right immediately to remove any item included in any emails forming part of the Services or any other item or material made available via the Services by the Customer at any time and without notice, where the content is in Charity Digital's reasonable opinion in breach of these Conditions. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise pursuant to this clause 3.9.

3.10 Charity Digital warrants to the Customer that the Services will be provided using reasonable care and skill.

3.11 Support Services

3.11.1 Where the Customer has purchased a Support Services package, Charity Digital shall use reasonable endeavours to provide such Support Services during Working Hours. The scope and availability of Support Services shall be as described in the applicable Order Form or Support Services description provided to the Customer at the time of purchase.

3.11.2 The provision of Support Services is subject to the Reasonable Use Policy set out in clause 4.3. Charity Digital reserves the right to decline or limit any support request that, in its reasonable opinion, falls outside the scope of the purchased Support Services package or constitutes excessive or unreasonable use.

3.11.3 Charity Digital shall use reasonable endeavours to respond to support requests within Working Hours but does not warrant any specific response or resolution times. The availability of Support Services may be affected by factors outside Charity Digital's control, including but not limited to the availability of third-party platforms and systems.

3.11.4 Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage arising from: (a) any delay in providing or any inability to provide Support Services; (b) the outcome of any support request; or (c) any reliance by the Customer on guidance or assistance provided as part of the Support Services.

3.11.5 Where a support matter can reasonably be resolved by the Customer using the Charity Digital Mail self-help portal or published help documentation, Charity Digital reserves the right to direct the Customer to such resources in lieu of providing direct Support Services assistance.

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) ensure that the terms of the Order are complete and accurate;
- (b) co-operate with Charity Digital in all matters relating to the Services;

- (c) provide Charity Digital with such information and materials as Charity Digital may reasonably require in order to supply the Services, and ensure that such information is accurate in all material respects;
- (d) obtain and maintain all necessary licenses, permissions and consents which may be required before the date on which the Services are to start;
- (e) keep its password and other access details for use of the Services confidential and restricted to those members of staff who need to know such details and shall ensure all such staff are aware of the confidential nature of such information and treat it accordingly. The Customer shall notify Charity Digital immediately if it believes that such information is no longer secret. The Customer is solely responsible for all activities that occur under the Customer's password or account. The Customer will not permit any person to access the Services for any unauthorised purpose that would constitute a breach of these Conditions if such a breach was carried out by the Customer; and
- (f) warrant that, in respect of all marketing emails sent using the Services, it holds valid consent from each recipient or another lawful basis under the Privacy and Electronic Communications (EC Directive) Regulations 2003 and the UK GDPR, and that all such communications comply with applicable data protection and electronic communications law. The Customer shall, upon request, provide Charity Digital with evidence of such consent or lawful basis.

4.2 The Customer shall not:

- (a) use the Services in any way so as to bring the "Charity Digital Mail" brand or Charity Digital into disrepute;
- (b) use the Services to send unsolicited or unauthorised advertising, promotional material, 'junk mail', 'spam', 'chain letters' or 'pyramid schemes', offensive 'adult' services, 'pornographic' material, 'pornographic' images, communications promoting email address data lists or any other form of solicitation to any Data Subjects or third party;
- (c) forge headers or otherwise manipulate identifiers in order to disguise the origin of any content or materials transmitted through the Services;
- (d) use the Services in a manner which is or may reasonably be considered to be unlawful, harmful, threatening, abusive, harassing, tortious, indecent, obscene, libellous, menacing or invasive of another person's privacy;
- (e) use the Services in a manner which infringes the Intellectual Property Rights of any third party, including Data Subjects;
- (f) introduce any viruses, trojans, worms, logic bombs or other material which is technologically harmful;
- (g) attempt to gain unauthorised access to the Site or Services, the server on which the Site or Services are stored or any server, computer or database connected to the Site or Services; or
- (h) attack the Site or Services via a denial-of-service attack or a distributed or malicious denial-of-service attack.

4.3 Reasonable Use Policy for Support Services

4.3.1 Where the Customer has purchased a Support Services package, the Customer agrees to use the Support Services reasonably and in good faith. The Customer shall not use the Support Services in an excessive, persistent or disproportionate manner having regard to the nature and scope of the Support Services package purchased.

4.3.2 Without limiting the foregoing, the Customer is expected in the first instance to make use of the Charity Digital Mail self-help portal and any published help documentation and knowledge base materials made available by Charity Digital, before submitting a support request to Charity Digital, where the relevant matter is reasonably capable of being resolved by those resources.

4.3.3 Charity Digital reserves the right, acting reasonably, to notify the Customer if it considers that the Customer's use of the Support Services is excessive or falls outside the scope of the purchased package. Following such notification, Charity Digital may: (a) require the Customer to refer to the Charity Digital Mail self-help portal; (b) offer the Customer an upgraded Support Services package; or (c) in cases of persistent or unreasonable use, limit or suspend the Customer's access to Support Services until the position is resolved.

4.3.4 Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise from the application of this clause 4.3.

4.4 Charity Digital monitors the content of emails created by the Customer and may at its discretion immediately and without notice to the Customer suspend the Service if it considers in its reasonable opinion that the Customer is in breach of clause 4.2 and no refund of the Charges to the Customer will be made. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise under this clause 4.4.

4.5 If Charity Digital's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (Customer Default):

- (a) Charity Digital shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Charity Digital's performance of any of its obligations;
- (b) Charity Digital shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Charity Digital's failure or delay to perform any of its obligations as set out in this clause 4.5; and
- (c) the Customer shall reimburse Charity Digital on written demand for any costs or losses sustained or incurred by Charity Digital arising directly or indirectly from the Customer Default.

5. CHARGES AND PAYMENT

5.1 The Customer shall pay the Charges for the Services in accordance with the Contract. Payment shall be made in pounds Sterling. The Customer purchases email credits for a 12-month period and payment is required upfront. Charity Digital shall invoice the Customer annually or twice-yearly, with payment due within 30 days of the date of invoice, by direct debit or BACS. All services provided under this contract are subject to VAT.

5.2 All amounts payable by the Customer under the Contract are exclusive of value added tax (VAT), which shall be payable by the Customer in addition to the Charges.

5.3 If the Customer fails to make any payment due to Charity Digital by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per cent per annum above NatWest Bank plc's base rate from time to time. Such interest shall accrue on a daily basis and compound quarterly from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount. If the Customer fails to pay any sums due within the number of days set out in clause 5.1. Without prejudice to our rights under clause 9.3, Charity Digital reserves the right to disable the account immediately and to suspend the

provision of the Services to the Customer until such time as any outstanding invoices have been settled in full in cleared funds.

5.4 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Charity Digital may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by Charity Digital to the Customer.

5.5 Charity Digital reserves the right to procure that credit checks are carried out on the Customer without notice from time to time, and to provide a restricted Service limiting the send volumes of emails based on the results of such credit checks. Charity Digital also reserves the right to apply a limit on Charges incurred by the Customer or to request payments of Charges in advance during the provision of the Services if a Customer's credit rating reduces. Such limits will be notified to the Customer in writing and shall continue until such time as Charity Digital may elect at its sole discretion.

5.6 Charity Digital reserves the right to increase, modify or amend its fee rates. Any such change shall take effect at the next renewal date of the Contract and shall not apply mid-contract unless otherwise agreed in writing between the parties. Charity Digital will give the Customer written notice of any such increase not less than 30 days before the proposed renewal date. If such increase is not acceptable to the Customer, it shall notify Charity Digital in writing within 30 days of the date of Charity Digital's notice and the Customer shall have the right to terminate the Contract with immediate effect. If no such notice is received from the Customer, then the Customer shall be deemed to have accepted the changes proposed by Charity Digital.

6. INTELLECTUAL PROPERTY RIGHTS

6.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Charity Digital.

6.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Charity Digital obtaining a written license from the relevant licensor on such terms as will entitle Charity Digital to license such rights to the Customer.

7. CONFIDENTIALITY

A party (Receiving Party) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (Disclosing Party), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business, its products and services which the receiving party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause 7 shall survive termination of the Contract.

8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

8.1 Nothing in these Conditions shall limit or exclude Charity Digital's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by an applicable law.

8.2 Subject to clause 8.1:

- (a) Charity Digital shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of sales or business, loss of agreements of contracts, loss of or damage to goodwill and/or similar losses, loss of contract, loss of goods, loss of or corruption of software, loss or corruption of data or information or any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses arising under or in connection with the Contract; and
- (b) Charity Digital's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise howsoever, shall in no circumstances exceed an amount equal to the total Charges paid by the Customer in the 12 months preceding the event giving rise to the claim, in respect of any single claim or series of connected claims brought by the Customer under this Contract.

8.3 Other than where expressly stated, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Conditions. In particular, the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.4 Charity Digital has no responsibility or liability for the storage or back up of Customer data and although back-ups will be carried out at regular intervals, the Customer shall remain entirely responsible for making its own back-up of such data if required, particularly but not limited to when the Customer adds a significant amount of data over a short time period. Charity Digital shall incur no direct or indirect liability to the Customer for any loss or damage, however caused, arising from any loss of data arising under this clause 8.4.

8.5 The Customer shall indemnify Charity Digital against all 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 and other reasonable professional costs and expenses) suffered or incurred by Charity Digital arising out of or in connection with the deliberate and persistent misconduct of the Customer resulting in a breach or breaches of clauses 4, 8.7 or 12. This indemnity shall not cover Charity Digital to the extent that a claim under it results from Charity Digital's negligence or wilful misconduct.

8.6 If any third party makes a claim, or notifies an intention to make a claim, against Charity Digital which may reasonably be considered likely to give rise to a liability under the indemnity set out in clause 8.5 (a Claim), Charity Digital shall:

- (a) as soon as reasonably practicable, give written notice of the Claim to the Customer, specifying the nature of the Claim in reasonable detail; and
- (b) not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Customer (such consent not to be subject to unreasonable conditions, withheld or delayed), provided that Charity Digital may settle the Claim (after giving prior written notice of the terms of settlement (to the extent legally possible) to the Customer, but without obtaining the Customer's consent) if Charity Digital believes that failure to settle the Claim would be prejudicial to Charity Digital in any material respect.

8.7 Charity Digital does not accept and shall have no responsibility or liability whatsoever, howsoever arising, directly or indirectly for the content of any emails sent using the Services or for sending them to the recipients in accordance with this Contract.

8.8 Nothing in this clause shall restrict or limit either party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under this clause 8. This clause shall survive termination of the Contract.

9. TERMINATION

9.1 This Contract will expire upon exhaustion of the Customer's email credit allowance or at the end of the 12-month contract period, whichever is sooner. The Customer may also elect to terminate the Contract at that point by providing written notice to Charity Digital.

9.2 This agreement will be terminated with immediate effect if provision of the white label platform from which these services are provided is made unavailable to Charity Digital.

9.3 Without limiting its other rights or remedies, Charity Digital may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so;
- (b) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (h) the holder of a qualifying floating charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;

(j) any event occurs or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.3(b) to clause 9.3(i) (inclusive);

(k) the Customer suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

(l) the Customer's financial position deteriorates to such an extent that in Charity Digital's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

9.4 Without limiting its other rights or remedies, Charity Digital may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on or before the due date for payment.

9.5 Without limiting its other rights or remedies, Charity Digital may suspend provision of the Services and Support Services under the Contract or any other contract between the Customer and Charity Digital if the Customer becomes subject to any of the events listed in clause 9.3(b) or Charity Digital believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

9.6 Charity Digital retains the right to withdraw access to services if the Customer has not used the services for a period of more than 11 months.

9.7 Charity Digital will suspend the Services and Support Services immediately upon advice from either the Customer directly or by its bankers indirectly that the Direct Debit mandate for payment of services has been either suspended or cancelled.

9.8 In the event that Charity Digital suspends the provision of Services and Support Services to the Customer, no refund of any prepaid Charges shall be due to the Customer in respect of the period of suspension. The period during which Charity Digital may suspend the Services and Support Services in accordance with this Contract will continue until the circumstances giving rise to Charity Digital's right to suspend the Services and Support Services cease to subsist or until this Contract is terminated hereunder. Where the provision of Services and Support Services to the Customer has been suspended, Charity Digital reserves the right to charge the Customer a £30.00 (thirty pounds) administration fee for reconnection or any resumption of the provision of the Services.

9.9 Any suspension or termination of this Contract for any reason shall be without prejudice to any other rights or remedies a party may be entitled to at law or under these Conditions and shall not affect any accrued rights or liabilities of either party nor the coming into force or the continuance in force of any provision of these Conditions which is expressly or by implication intended to come into or continue in force on or after such termination including but not limited to the warranties and indemnities contained in these Conditions.

10. RENEWAL

10.(i) This agreement may be renewed upon expiry of the 12-month contract period. Where the Customer's email credit allowance is exhausted before the end of the 12-month contract period, the Customer may also renew or purchase additional email credits at that point by entering into a new Order with Charity Digital.

10.(ii) Any renewal shall be subject to the then-current Charges and these Conditions as updated at the time of renewal.

11. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

(a) the Customer shall immediately pay to Charity Digital all of Charity Digital's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Charity Digital shall submit an invoice, which shall be payable by the Customer.

(b) Charity Digital shall be under no obligation to retain any data (including but not limited to Personal Data), except as required under Data Protection Legislation;

(c) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

(d) clauses which expressly or by implication survive termination shall continue in full force and effect; and (e) any Support Services purchased by the Customer shall automatically expire upon termination or expiry of this Contract without renewal. No refund of any prepaid Charges attributable to unused Support Services shall be due following such expiry or termination.

12. FORCE MAJEURE

Without prejudice to the Customer's obligations under clauses 4.2(f) and 4.2(h), neither party shall be responsible to the other in circumstances where some or all of the obligations (except for the obligation for the payment of Charges) under these Conditions cannot be performed due to circumstances outside the reasonable control of the defaulting party including, without limitation, an Act of God, change in legislation, fire, explosion, flood, accident, strike, lockout or other industrial dispute, war, terrorist act, riot, civil commotion, failure of public power supplies, third party hacking, viruses, trojans, worms, logic bombs or other material attacking the Site, a denial-of-service attack, a distributed or malicious denial-of-service attack, failure of communication facilities, unavailability of internet, default of suppliers or sub-contractors, or the inability to secure computer processing facilities (including those of the necessary quality or security), obtain materials or supplies and, in all cases, the inability to do so except at increased prices (whether or not due to such causes). However, if such circumstances persist for more than 14 days, the non-defaulting party may terminate the Contract and all Charges due to Charity Digital up to the date of termination shall become immediately due and payable.

13. PROTECTION OF PERSONAL DATA

13.1 To the extent that any Personal Data is Processed in connection with the supply of Services to the Customer, the parties agree that the Customer is the Data Controller and that Charity Digital is the Data Processor and that dotdigital is a Processor for Charity Digital.

13.2 The Personal Data is derived from data provided by the Customer and is not checked or monitored by Charity Digital or its Processors and, accordingly, Charity Digital has no liability or responsibility whatsoever howsoever arising directly or indirectly to the Customer for the accuracy, contents or use of such Personal Data under this clause 13.

13.3 Charity Digital shall:

(a) Process the Personal Data only in accordance with instructions from the Customer (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified in writing by the Customer to Charity Digital);

(b) Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any Regulatory Body;

- (c) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm and/or reputational damage which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- (d) take reasonable steps to ensure the suitability of any member of Charity Digital's team who has access to the Personal Data;
- (e) ensure that all members of Charity Digital's team required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 13;
- (f) ensure that none of Charity Digital's Team publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer;
- (g) notify the Customer (within five Working Days) if it receives: (i) a request from a Data Subject to have access to that person's Personal Data; or (ii) a complaint or request relating to the Customer's obligations under the Data Protection Legislation;
- (h) subject to the payment of costs, provide the Customer with full cooperation and assistance in relation to any complaint or request made, including by: (i) providing the Customer with full details of the complaint or request; (ii) complying with a data access requests within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customers instructions; (iii) providing the Customer with any Personal Data it holds in relation to a Data Subject (within the timescales reasonably required by the Customer); (iv) providing the Customer with any information reasonably requested by the Customer; and (v) complying with a data deletion and transfer requests within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customers instructions;
- (i) permit the Customer (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit Charity Digital's data Processing activities (and/or those of its agents, subsidiaries and sub-contractors) during normal Working Hours and at Customer's costs comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that Charity Digital is in full compliance with its obligations under this Contract;
- (j) provide a written description of the technical and organisational methods employed by Charity Digital for Processing Personal Data (within the timescales required by the Customer); and
- (k) not Process or otherwise transfer any Personal Data outside the UK or any country benefiting from a UK adequacy regulation without the informed written consent of a Data Subject.
- (l) inform the Customer of any breach related to the Customer's data that has been reported to Charity Digital by its Processor or that has been discovered by Charity Digital without undue delay, and in any event within 48 hours of becoming aware of the breach, so as to enable the Customer to meet its own notification obligations under the Data Protection Legislation.
- (m) Charity Digital will ensure that its Processors maintain adequate data protection that is not less than the level laid out in current Data Protection Legislation.

13.4 Charity Digital shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.

14. CAP CODE

14.1 It is a condition of the provision of these Services that the Customer agrees to follow the CAP Code (summarised in brief in the attached Appendix) in all marketing communications and that the reputation, goodwill and brand of Charity Digital is fully preserved and protected.

14.2 The Customer agrees:

- (a) to comply, and to ensure that its use of the Services complies, in all respects, with all applicable legislation, regulations, directions, codes of practice, best practice guides (including, without limitation, the DMA best practice guides, The Committee of Advertising Practice Code, the Spamhaus best practice guides) and other rules and guidelines, mandatory or otherwise, promulgated from time to time by governments, regulators and/or email user groups acknowledged both UK and worldwide (collectively, referred to as the Codes);
- (b) that where Charity Digital is notified that a Customer is or has been in breach of any Codes, Charity Digital shall be entitled immediately without notice to the Customer to act on any request or recommendation for access by the Customer to be barred to such Services. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise under this clause 14.2(b);
- (c) to provide all reasonable assistance to Charity Digital to comply with any requirements or conditions which are at any time imposed by law or any regulator which are applicable to or affect the Services; and
- (d) to provide, Charity Digital, any relevant authority, user group or regulator with such information or material relating to the Services or a future service as it may reasonably request in order to carry out any investigation in connection with the Services.

14.3 In the event of a breach by the Customer of applicable legislation, regulations, directions, the CAP Code, codes of practice, best practice guides or any other rules and guidelines, Charity Digital will review the circumstances leading to the breach and may in its absolute discretion (taking account of the Customer's track record of Use of the Services) either terminate the provision of Services or reactivate the Services subject to the Customer providing documentary evidence that the breach was caused inadvertently and while acting in good faith and that appropriate steps have been taken to prevent any recurrences. Charity Digital accepts no responsibility or liability to the Customer for any direct or indirect loss or damage that may arise under this clause 14.3.

15. GENERAL

15.1 Assignment and other dealings.

- (a) Charity Digital will inform the Customer in advance of assigning, transferring, mortgaging, charging, subcontracting or dealing in any other manner with all or any of its rights under the Contract. Charity Digital may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent, provided this does not alter its ability to fulfil this Contract in line with current Data Protection Legislation.
- (b) The Customer shall not, without the prior written consent of Charity Digital, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

15.2 Notices

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 15.2(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by e-mail, one Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15.3 Severance. If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

15.4 Waiver. A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

15.6 Third parties. A person who is not a party to the Contract shall not have any rights to enforce its terms.

15.7 Variation. Charity Digital may at its reasonable discretion, change or modify the Conditions or Services upon giving the Customer 30 days' notice of the same either by email or notification on the website. Within a further 14 days from the expiry of such 30 days' notice, the Customer may notify Charity Digital in writing that it wishes to terminate the Contract with effect from the date of any proposed change to the Conditions or Services. Charity Digital may then choose to either accept the notice of termination from the Customer, alter the Conditions or Service or withdraw its notice to the Customer. If no such notice is received from the Customer, the Customer shall be deemed to have accepted the changes made by Charity Digital.

15.8 Governing law. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

15.9 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

APPENDIX: SUMMARY OF CAP CODE

All marketing communications in the UK are governed by the Committee of Advertising Practice (CAP) Code which is enforced by the Advertising Standards Authority, full details of which can be found at www.cap.org.uk/.

The general principles of this code are that the content of any marketing email should be legal, decent, honest, truthful, prepared with a sense of responsibility to consumers and society and in line with the principles of fair competition.

Some specific sections of the code which may be relevant to email marketing include:

Marketers, publishers and owners of other media should ensure that marketing communications are designed and presented in such a way that it is clear that they are marketing communications. Unsolicited e-mail marketing communications should be clearly identifiable as marketing communications without the need to open them.

E-mail and mobile marketing communications should contain the full name and a valid address (e.g. an email address) of the marketers to which recipients can send opt-out requests.

Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation. The adequacy of evidence will be judged on whether it supports both the detailed claims and the overall impression created by the marketing communication.

Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, sexual orientation or disability. Compliance with the Code will be judged on the context, medium, audience, product and prevailing standards of decency.

E-mail and mobile marketing communications should contain the full business name, registered office and Company registration number of the sender and must provide a valid mechanism for the recipients request to be unsubscribed.

These T&C's are reviewed and updated on a 12 month basis. Last update: June 2026

OTHER CHARGES FOR OPTIONAL ADDITIONAL FEATURES (Charges exclusive of VAT)

Custom from address: £285 (one-off charge)

Survey tool & Landing Pages: £75 monthly on a roll over basis

SMS: subject to dotdigital current rates (for more information contact Charity Digital)