

## Our terms

### 1. These terms

- 1.1. **What these terms cover.** These are the terms and conditions on which we supply our Services to you (the “Terms”).
- 1.2. **Why you should read them.** Please read these Terms carefully before you click “I agree”. These Terms tell you who we are, how we will provide the Services to you, how you and we may change or end the contract, what to do if there is a problem and other important information.
- 1.3. **This is our entire agreement with you.** These Terms constitute the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation based on any statement in these Terms.

### 2. Information about us and how to contact us

- 2.1. **Who we are.** We are Troop Creative Development Limited trading as IR35.io a company registered in England and Wales. Our company registration number is 10907313 and our registered office is at Troop, PO BOX 1257, Sandhurst, England, GU47 7GE (referred to as “Us/us” or “We/we” in these Terms).
- 2.2. **How to contact us.** You can contact us by telephoning our customer service team at [hello@troopcreative.co.uk](mailto:hello@troopcreative.co.uk)
- 2.3. **How we may contact you.** If we have to contact you we will do so by telephone or by writing to you at the email address or postal address you provided to us.
- 2.4. **"Writing" includes emails.** When we use the words "writing" or "written" in these terms, this includes emails.

### 3. Our contract with you

- 3.1. We use the below definitions though these Terms, this is what they mean:

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

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the

use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

**Effective Date:** the date of these Terms.

**Heightened Cybersecurity Requirements:** any laws, regulations, codes, guidance (from regulatory and advisory bodies. Whether mandatory or not), international and national standards and sanctions, which are applicable to either the Customer relating to security of network and information systems and security breach and incident reporting requirements, which may include the cybersecurity Directive ((EU) 2016/1148), Commission Implementing Regulation ((EU) 2018/151), the Network and Information systems Regulations 2018 (SI 506/2018), all as amended or updated from time to time.

**Services:** the subscription services provided by us to you under these Terms from time to time, being the operation of the Software to gather information including articles, news stories, press releases and graphics, which satisfy the Criteria, which can then be used to promote your business.

**Software:** the online software applications used by us as part of the Services.

**Subscription Fees:** the applicable subscription fees payable by you to us: <https://www.ir35.io/pricing>

**Subscription Term:** has the meaning given to it in paragraph 13.

**UK Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

**Subscriptions:** either the Standard Subscription, the Advanced Subscription or the Custom Subscription, whichever is relevant.

**Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

**Vulnerability:** a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

**4. The Services that we will provide to you.**

- 4.1. We shall, during the Subscription Term, provide the Services to you on and subject to these Terms.
- 4.2. We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:
  - (a) planned maintenance; and
  - (b) unscheduled maintenance provided that we have used reasonable endeavours to give you notice in advance.
- 4.3. Both parties will comply with all applicable requirements of the Data Protection Legislation.

**5. Third party providers.** You acknowledge that the Services may enable or assist you to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that you do this solely at your own risk. We do not own any such content. We make no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the you, with any such third party We recommend that you refer to third party's website terms and conditions and privacy policy prior to using the relevant third-party website. We do not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

**6. Our obligations and Disclaimers**

- 6.1. We undertake that the Services will be performed with reasonable skill and care.
- 6.2. The undertaking at paragraph 6.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us. If the Services do not conform with the foregoing undertaking, we will, at our expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertaking set out in paragraph 6.1.
- 6.3. We:
  - (a) do not warrant that:
    - (i) your use of the Services will be uninterrupted or error-free; or
    - (ii) that the Services, will meet your requirements;

- (iii) the Software or the Services will be free from Vulnerabilities; or
  - (iv) the Software or Services will comply with any Heightened Cybersecurity Requirements.
- (b) Are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- (c) Are not responsible for any fees, outstanding taxes or insurance relating to legal action, tribunal or any other process against you from external agencies such as HMRC relating to failed IR35 assessments or where our tool gave an incorrect assessment.

## **7. Your obligations to Us**

### **7.1. You shall:**

- (a) provide us with:
  - (i) all necessary co-operation in relation to this agreement; and
  - (ii) all necessary access to such information as may be required by the Supplier;in order to provide the Services, security access information and configuration services;
- (b) without affecting your other obligations under these Terms, comply with all applicable laws and regulations with respect to its activities under these Terms;
- (c) carry out all other responsibilities set out in these Terms in a timely and efficient manner.
- (d) ensure that its network and systems comply with the relevant specifications provided by the Supplier from time to time; and
- (e) adhere to all instructions, guidelines, and or working practices issues by us, from time to time.

### **7.2. You shall not access, store, distribute or transmit any Viruses, or any material during the course of your use of the Services that:**

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;

- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property;

and we reserve the right, without liability or prejudice to its other rights to the Customer, to disable your access to the Services if any material that breaches the provisions of this paragraph.

7.3. You shall not:

- (a) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) introduce or permit the introduction of, any Virus or Vulnerability into our network or information systems.

7.4. You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and in the event of any such unauthorised access or use, promptly notify us.

7.5. The rights provided under this paragraph 4 are granted to you only, and shall not be considered granted to any subsidiary or holding company.

## **8. Subscription Fees and Renewal**

8.1. You shall pay the Subscription Fees to us for the Services.

8.2. You shall provide a valid, up-to-date and complete credit card details. By supplying your credit card details to us you hereby authorise us to bill such credit card:

- (a) On the Effective Date for the Subscription Fees payable in respect of the first month's Services; and
- (b) Thereafter, on the 1<sup>st</sup> of each month the Subscription Fees as payment in advance for Services to be provided to you that month.

8.3. If we have not received payment on the due date, and without prejudice to any other rights and remedies we may have we may, without liability to you, disable your password, account and access to all or part of the Services and we shall be under no obligation to provide any or all of the Services until payment has been received.

8.4. All amounts and fees stated or referred to in these Terms:

- (a) shall be payable in pounds sterling;
- (b) are non-cancellable and non-refundable;

- (c) are exclusive of value added tax.
- 8.5. We shall be entitled to increase the Subscription Fees, upon 30 days' prior notice to you and the Subscription Fees shall be deemed to have been amended accordingly.
- 8.6. Subject to you purchasing the Subscription and these Terms, we hereby grant to you a non-exclusive, non-transferable right, to permit you to use the Services solely for your business promotion operations.
- 8.7. You undertakes that:
- (a) You shall keep secure your password(s) and Log-In details for your use of the Services, that such password(s) shall be changed no less frequently than 90 days and that you shall keep your password(s) confidential;
  - (b) you shall permit us or our designated auditor to audit your use of the Services in order to establish compliance with these Terms. Each such audit may be conducted no more than once per quarter, at our expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the your normal conduct of business.
- 9. No proprietary rights.** You acknowledge and agree that the Services are intended to assist you in the efficient operation of your social media accounts and promote your online presence. We do not own any of the content or any intellectual property rights in any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences associated with your use of the Services.
- 10. Indemnity to us.** You shall defend, indemnify and hold us harmless against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your use of the Services.
- 11. Our responsibility for loss or damage suffered by you if you are a business**
- 11.1. Nothing in these terms shall limit or exclude our liability for:
- (a) death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors (as applicable);
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - (d) any matter in respect of which it would be unlawful for us to exclude or restrict liability.

- 11.2. Except to the extent expressly stated in paragraph 11.1 all terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3 to 5 of the Supply of Goods and Services Act 1982 are excluded.
- 11.3. Subject to paragraph 11.1:
- (a) we shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with any contract between us; and
  - (b) our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total Subscription Fees paid by you for the Services.

## **12. Our responsibility for loss or damage suffered by you if you are a consumer**

- 12.1. If we fail to comply with these terms, we are responsible for loss or damage you suffer that is a foreseeable result of our breaking this contract or our failing to use reasonable care and skill, but we are not responsible for any loss or damage that is not foreseeable. Loss or damage is foreseeable if either it is obvious that it will happen or if, at the time the contract was made, both we and you knew it might happen, for example, if you discussed it with us during the sales process.
- 12.2. We do not exclude or limit in any way our liability to you where it would be unlawful to do so. This includes liability for death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors; for fraud or fraudulent misrepresentation.
- 12.3. We are not liable for business losses. If you use the products for any commercial, business or re-sale purpose our liability to you will be limited as set out in paragraph 11.3.

## **13. The length of the agreement between us and how we can end it.**

- 13.1. These terms shall take effect from the Effective Date. Unless terminated earlier in accordance with law or its terms, they shall continue for an initial term of 12 months and thereafter, until one party gives the other party 4 weeks written notice to terminate to expire on or after the expiry date of the initial term.
- 13.2. **Termination for cause.** Without affecting any other right or remedy available to you, you may terminate this Contract with immediate effect by giving written notice to the Agent if:

- (a) **Material breach.** You commit a material breach of any provision of these Terms which breach is irremediable or (if such breach is remediable) you fail to remedy that breach within a period of 5 days after being notified in writing to do so.
- (b) **Repeated breaches.** You repeatedly breach any of these Terms of this Contract in such a manner as to reasonably justify the opinion that your conduct is inconsistent with you having the intention or ability to give effect to the terms of these Terms.
- (c) **Insolvency.** You take or have taken against you any step or action in connection with you entering into administration, provisional liquidation or any composition or arrangement with your creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of your assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

You take any step or action in connection with you being made bankrupt, entering any composition or arrangement with his creditors, having a receiver appointed to any of his assets, or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction.

**14. Matters out of our control.** We shall have no liability to you under this agreement if it is prevented from or delayed in performing our obligations under this agreement, or from carrying on our business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that you notified of such an event and its expected duration.

**15. Other important terms**

**15.1. We may transfer this agreement to someone else.** We may transfer our rights and obligations under these terms to another organisation. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under these Terms.

**15.2. Nobody else has any rights under this contract (except someone you pass your guarantee on to).** These terms are between you and us. No other person shall have any rights to enforce any of these Terms.



- 15.3. If a court finds part of these Terms illegal, the rest will continue in force.** Each of the paragraphs of these terms operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 15.4. Even if we delay in enforcing this contract, we can still enforce it later.** If we do not insist immediately that you do anything you are required to do under these Terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date. For example, if you miss a payment and we do not chase you but we continue to provide the services, we can still require you to make the payment at a later date.
- 15.5. Which laws apply to this contract and where you may bring legal proceedings if you are a consumer.** These Terms are governed by English and Welsh law and you can bring legal proceedings in respect of the products in the English and Welsh courts. If you live in Scotland you can bring legal proceedings in respect of the products in either the Scottish or the English and Welsh courts. If you live in Northern Ireland you can bring legal proceedings in respect of the products in either the Northern Irish or the English and Welsh courts.
- 15.6. Which laws apply to this contract and where you may bring legal proceedings if you are a business.** If you are a business, any dispute or claim arising out of or in connection with a contract between us 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 and the courts of England and Wales shall have exclusive jurisdiction to settle any such dispute or claim.