

# General Terms & Conditions

## 1. INTERPRETATION

**1.1** The following Definitions and Rules of Interpretation apply in these Conditions.

### 1.2 Definitions:

**Anti-Bribery and Corruption Requirements** means all Applicable Laws relating to anti-bribery and anti-corruption including the Bribery Act 2010.

### Applicable Law

means all statutes, laws, statutory instruments, bye-laws enactments, orders, rules, regulation or other similar instruments having the force of law in the territory where the Services are supplied.

### Business Day

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

### Commencement Date

the date on which Moneypenny commences performance of the Services, as confirmed by Moneypenny on the first invoice issued for the Services.

### Conditions

these general terms and conditions (as amended from time to time in accordance with clause 20).

### Contract

the contract between Moneypenny and the Customer for the supply of Services in accordance with these Conditions and the Services Specific Terms.

### Contract Year

each consecutive 12-month period commencing on the Commencement Date and each anniversary of it.

### Customer

the person, company or organisation who purchases Services from Moneypenny.

### Data Subject

an individual who is directly or indirectly identified or identifiable from the Personal Data.

### Force Majeure Event

has the meaning set out in clause 17.

### Initial Term

in respect of each Contract, has the meaning as set out in the Services Specific Terms for the relevant Services.

### Moneypenny

Callitech Limited trading as Moneypenny registered in England and Wales with company number 03894972 whose registered office is at Western Gateway, Wrexham, Wales LL13 7ZB.

### Relevant Anti-Slavery Requirements

means all Applicable Laws relating to the prevention of modern slavery and human trafficking including the UK Modern Slavery Act 2015.

### Retail Prices Index

the Retail Prices Index (all items, excluding mortgages) as published by the Office for National Statistics from time to time or failing such publication, such other index as the parties may agree most closely resembles such index.

### Required Notice Period

in respect of each Contract, has the meaning as set out in the Services Specific Terms for the relevant Services.

### Services

the Services selected by the Customer to be supplied by Moneypenny pursuant to the Contract, as further described in the Services Specific Terms.

### Services Specific Terms

the services specific terms appended to these Conditions as applicable to the Services (as amended from time to time in accordance with clause 20).

### Specification

the written description of the Services made available at [www.moneypenny.com](http://www.moneypenny.com) (as amended in accordance with clause 20).

### 1.3 Interpretation:

**1.4** A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

**1.5** Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

**1.6** A reference to writing or written includes email.

**1.7** In the event of any conflict or inconsistency between clauses 1 and 25 of these Conditions (being the General Terms and Conditions) and any term within the Services Specific Terms, the Services Specific Terms shall prevail.

## 2. SCOPE OF CONDITIONS

**2.1** The commencement of the provision of the Services by Moneypenny (including provision during any trial period) constitutes an offer by Moneypenny to supply the Services to the Customer subject to and in accordance with these Conditions and the Services Specific Terms, and the Customer using or agreeing to buy the Services constitutes acceptance of these Conditions and the Services Specific Terms.

**2.2** These Conditions and the Services Specific Terms apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate including, without limitation, any terms under which a purchase order has been issued, or which are implied by trade, custom, practice or course of dealing.

**2.3** The Customer's attention is drawn in particular to clause 12 which sets out important details as to how the liability of Moneypenny to the Customer is limited.

## 3. SUPPLY OF SERVICES

**3.1** Moneypenny warrants that it shall supply the Services to the Customer in accordance with the Specification in all material respects and it shall use reasonable skill and care in the performance of the Services. Moneypenny shall use reasonable

endeavours to meet any performance times or dates specified in the Specification, but time shall not be of the essence for performance of the Services.

## 4. ADVERTISING

**4.1** Each party agrees not to use the other party's name, address or logo in publicity materials without the prior written consent of the other party.

## 5. CUSTOMER'S OBLIGATIONS

### 5.1 The Customer shall:

**5.1.1** provide Moneypenny with all information and co-operation that Moneypenny reasonably requires to enable Moneypenny to perform the Services to observe its obligations under the Contract;

**5.1.2** provide Moneypenny, its employees, agents, consultants and subcontractors with such access to the Customer's premises and data, and such office accommodation and other facilities as may reasonably be requested by Moneypenny and agreed with the Customer in writing in advance, for the purposes of the Services;

**5.1.3** provide Moneypenny with such information and materials as Moneypenny may reasonably require in order to supply the Services in a timely manner, and ensure that such information is complete and accurate in all material respects;

**5.1.4** inform Moneypenny of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Customer's premises; and

**5.1.5** at all times indemnify and hold harmless Moneypenny from and against any and all claims, demands, proceedings, damages, penalties, costs, losses, liabilities and expenses of any kind, threatened, claimed or awarded against or otherwise incurred by Moneypenny arising out of or in connection with the Transfer of Undertakings (Protection of Employment) Regulations 2006 ('TUPE') as a result of the provision of the Services,

# General Terms & Conditions *continued*

or otherwise, including, without limitation, in respect of anything which Moneypenny is deemed to have done or omitted to have done in respect of any employee by virtue of TUPE.

## **6. DURATION AND TERMINATION**

**6.1** The Contract shall commence on the Commencement Date and, except as specified to the contrary in the Services Specific Terms and subject to clause 6.3, it shall continue for the Initial Term. After the Initial Term it shall continue in force and effect unless and until terminated on written notice by either party to the other party on no less than the Required Notice Period.

**6.2** Where relevant to the Services, the Customer may upgrade the scheme applicable to it at any time. The Customer may only downgrade the scheme applicable to it once the Customer has been using that scheme for a minimum of 3 months and provided that the relevant Contract for the Services is not the subject of a termination notice served by either party.

**6.3** Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

**6.3.1** the other party fails to pay any amount due under the Contract on the due date for payment and remains in default no less than 7 days after being notified in writing to make such payment; or

**6.3.2** the other party commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

**6.3.3** the other party repeatedly breaches any of the terms of the Contract or conducts itself in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or

**6.3.4** the other party commences negotiations with its creditors, appoints an administrator or receiver or 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) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being a natural person) 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.

**6.4** Moneypenny may terminate the Contract immediately by notice in writing if the Customer is in breach of its obligations as set out in clause 16.1.

## **7. CONSEQUENCES OF TERMINATION**

### **7.1 On termination of the Contract for any reason:**

**7.1.1** the Customer shall immediately pay to Moneypenny all of Moneypenny's outstanding unpaid invoices and interest and in respect of the Services supplied but for which no invoice has been submitted and Moneypenny may submit an invoice, which shall be payable immediately on receipt; and

**7.1.2** the Customer shall within a reasonable time, where applicable, return all of Moneypenny's equipment. If the Customer fails to do so, Moneypenny may enter the Customer's premises and take possession of it. Until such equipment has been returned or repossessed, the Customer shall be responsible for its safe keeping.

**7.2** The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination shall not be affected.

**7.3** Moneypenny shall be entitled to charge for the Services during the relevant Required Notice Period at higher of the then current rate of fees payable by

the Customer, or a rate based on the average of the fees payable by the Customer during the previous 12 months.

## **8. CHARGES AND PAYMENT**

**8.1** Unless otherwise agreed in writing by Moneypenny or specified in the Services Specific Terms, all sums due to Moneypenny under the Contract shall be payable within 14 days of receipt of Moneypenny's invoice.

**8.2** All invoices submitted by Moneypenny shall be treated as agreed unless the Customer notifies Moneypenny in writing of any discrepancies within 7 days of the date of the invoice.

**8.3** All charges under the Contract shall be subject to VAT at the prevailing rate and shall be paid in full by the Customer without any set-off, counterclaim, deduction or withholding (other than any deduction of withholding tax as required by law).

**8.4** Moneypenny, in consultation with the Customer, may at its revocable discretion assign to the Customer a credit limit and shall notify the Customer of such limit in writing. In the event the aggregate value outstanding from the Customer at any time exceeds this limit, Moneypenny reserves the right to demand immediate payment of any such excess amount and any failure by the Customer to pay may result in a suspension of the Services and/or termination of the Contract in accordance with these Conditions.

**8.5** Moneypenny will process payment by the agreed means and make available for viewing or download on the Moneypenny portal a copy of an invoice or provide the Customer with an invoice electronically.

**8.6** Moneypenny may increase the charges for the Services on an annual basis. Moneypenny shall provide the Customer 30 calendar days' written notice of the increase.

**8.7** Without prejudice to any other right or remedy that it may have (including the right to claim a higher rate of interest under the Late Payment of Commercial Debts (Interest) Act 1998), if the Customer fails to pay Moneypenny on the due date, Moneypenny may:

**8.7.1** charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of RBS plc, accruing on a daily basis and compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand; and

**8.7.2** suspend all Services until payment has been made in full.

## **9. EQUIPMENT AND SOFTWARE**

**9.1** All software and hardware in whatever form provided by Moneypenny for the purpose of providing the Services remains the property of Moneypenny. Moneypenny grants the Customer a non-exclusive, non-transferable licence to any such software for the purpose of using the Service and for no other purpose. The Customer shall not reproduce the software, shall keep it in confidence and shall not modify it.

**9.2** The Customer acknowledges that, where Moneypenny does not own the software or hardware supplied, the Customer's use of rights is conditional on Moneypenny obtaining a written licence or sub-licence from the relevant licensor on such terms as will entitle Moneypenny to licence such rights to the Customer.

## **10. DATA PROTECTION AND CALL MONITORING**

**10.1** Moneypenny and the Customer acknowledge that for the purposes of 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) as amended and incorporated into UK law under the

## General Terms & Conditions *continued*

UK European Union (Withdrawal) Act 2018 (the “GDPR”); the Data Protection Act 2018 (“DPA”); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended (the “Data Protection Laws”), the Customer is the data controller and Moneypenny is the data processor in relation to personal data (“Personal Data”).

**10.2** Moneypenny shall process all Personal Data relating to the Customer, the Customer’s directors, employees, contractors and consultants and any person or organisation from whom Moneypenny receives a telephone call, fax or email for or on behalf of the Customer (a “Caller”) or any Customer who uses a live chat communication platform and/or text based communications via the platform on behalf of the Customer (a “Visitor”) strictly in accordance with the Data Protection Laws and on the written instructions of the Customer, unless otherwise required by applicable law, in which case, Moneypenny shall (to the extent permitted by law) inform the Customer of that legal requirement before carrying out the processing. This Personal Data may include names, email addresses, telephone numbers, dates of birth and any other types of personal data provided by Callers and Visitors to Moneypenny.

**10.3** For the purposes of the Contract, “process” means any operation or set of operations which is performed on the Personal Data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**10.4** Moneypenny shall, having regard to the state of technological development and the cost of implementing any measures, take appropriate technical and organisational measures against the

unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

**10.4.1** the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and

**10.4.2** take reasonable steps to ensure compliance with those measures.

**10.5** Moneypenny shall ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential.

**10.6** Moneypenny shall assist the Customer, at the Customer’s cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under Articles 32 – 36 of the GDPR.

**10.7** At the written direction of the Customer, Moneypenny shall delete or return Personal Data and copies thereof to the Customer on termination of the Contract unless Moneypenny is required to retain Personal Data in order to comply with applicable laws.

**10.8** Moneypenny shall not engage a sub-processor to process the Personal Data unless:

**10.8.1** it has obtained prior written consent from the Customer. The Customer hereby consents to the engagement of the sub-processors listed [here](#) at the Commencement Date (the “Approved Sub-Processors”). In the event that Moneypenny intends to engage any sub-processors other than the Approved Sub-Processors, Moneypenny shall inform the Customer by [updating this list](#). The Customer may object to such changes in writing within 14 days of the update, but if the Customer does not object within that time period, it shall be deemed to consent to the change notified. If the Customer objects to any changes to Moneypenny’s use of sub-processors then Moneypenny may, at its absolute discretion, terminate the Contract by

giving 30 days’ prior written notice; and

**10.8.2** the sub-processor has entered into a contract with Moneypenny which imposes obligations on the sub-processor which are required by Article 28 of the GDPR.

**10.9** Moneypenny shall make available to the Customer all information, documentation and assistance reasonably required by the Customer to enable the Customer to verify that Moneypenny is in compliance with this clause 10. Moneypenny shall permit the Customer (either itself or through third party auditors appointed by the Customer, subject to such third parties being subject to appropriate confidentiality undertakings) to audit Moneypenny’s compliance with this clause 10, subject to:

**10.9.1** a maximum of one audit per year;

**10.9.2** the Customer providing Moneypenny with reasonable prior notice;

**10.9.3** the parties agreeing the scope, time and date of the audit in advance, subject to all audits being carried out during Moneypenny’s normal working hours; and

**10.9.4** the Customer using all reasonable endeavours to minimise the disruption caused to Moneypenny by the audit.

**10.10** The Customer acknowledges and agrees that details of the Customer’s name, address and payment record may be submitted to a credit reference agency, and Personal Data will be processed by and on behalf of Moneypenny in connection with the Services.

**10.11** Moneypenny may use anonymised call and chat transcriptions to build models for the improvement and optimisation of the Services. For the avoidance of doubt, these anonymised call and chat transcriptions will not include any Personal Data.

**10.12** The Customer shall, in its use of the Services, only monitor or record calls or live chat messages, or instruct Moneypenny to monitor or record calls

or live chat messages, in accordance with Data Protection Laws. Without prejudice to the generality of the foregoing, the Customer shall be responsible for complying with all requirements under Data Protection Laws to provide notice to Callers, Visitors and recipients of the calls or live chat messages and to obtain the necessary consents from the Callers, Visitors and recipients of the calls or live chat messages on such monitoring or recording. The Customer specifically warrants that its use of the Services will not violate the rights of any Caller, Visitor or a recipient of a call or live chat message that has opted out from monitoring or recording of the calls or live chat messages. Unless otherwise confirmed by the Customer in writing (including by deactivating the call recording feature via the Moneypenny app, if applicable), the Customer hereby instructs Moneypenny to monitor and record calls and live chat messages for and on behalf of the Customer, and as data processor of the Customer, for the purposes of:

**10.12.1** establishing facts relevant to the Customer;

**10.12.2** ascertaining compliance with the Customer’s regulatory obligations and the Customer’s own practices and procedures; and/or

**10.12.3** ascertaining or demonstrating to the Customer that calls or live chat messages are being handled to the standards required by the Customer.

**10.13** The Customer warrants that the Contract and the Services provided under it will not amount to any breach of any contract or arrangements it has with any of its clients or customers.

**10.14** Without prejudice to the generality of the other provisions of this clause 10, the Customer warrants that it has and will have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Moneypenny

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and the provision of the Services by Moneypenny for the duration and purposes of this agreement, and it will include in any relevant privacy notices a section explaining that calls may be recorded and identifying Moneypenny as the third party and data processor with whom the relevant Data Subjects' Personal Data will be shared for that purpose.

## 11. CONFIDENTIALITY

11.1 For the purpose of clauses 11.1 and 11.2, "Confidential Information" is defined as:

11.1.1 the name, company, firm or organisation, telephone number and other personal and contact details of a Caller or Visitor (as defined at clause 10.2);

11.1.2 the nature and content of the call, fax or email including any attachments to the fax or email, and any messages, live chat messages, text messages or voicemails left by the Caller or Visitor;

11.1.3 the existence of the call, fax or email; and

11.1.4 any information identified as confidential at the time of disclosure or ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

11.2 Moneypenny undertakes that it shall not at any time during the Contract, and for a period of 5 years after termination of the Contract, disclose to any person any Confidential Information (except as permitted by clause 11.3) relating to:

11.2.1 the Customer and its directors, employees, contractors and consultants; and

11.2.2 a Caller or Visitor.

11.3 Moneypenny may disclose Confidential Information:

11.3.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out its obligations under or in connection with the Contract. Moneypenny shall ensure that its employees, officers, representatives or advisers to whom it discloses Confidential Information comply with this clause

11; and

11.3.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.4 For the purpose of clause 11.5, "Moneypenny Confidential Information" shall include any information supplied, whether in writing, orally or otherwise, to the Customer marked as "confidential", described as "confidential" or any information concerning the business, affairs, customers, clients or suppliers of Moneypenny which might reasonably be assumed to be confidential.

11.5 The Customer undertakes that it shall not at any time during the Contract, and for a period of 5 years after termination of the Contract:

11.5.1 disclose to any person any Moneypenny Confidential Information, except as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority; or

11.5.2 use any Moneypenny Confidential Information for any purpose not directly connected to the performance of the Contract or exercise of rights under the Contract.

## 12. LIMITATION OF LIABILITY

### THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS WITHIN THIS CLAUSE

12.1 This clause 12 sets out the entire financial liability of Moneypenny (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:

12.1.1 any breach of the Contract including any deliberate personal repudiatory breach or any deliberate breach of the Contract by Moneypenny, or its employees, agents or subcontractors;

12.1.2 any use made by the Customer of the Services, or the equipment that has been supplied to the Customer under the terms of the Contract or any part of them; and

12.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

12.2 Subject to clause 12.3, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

12.3 Nothing in the Contract limits or excludes the liability of Moneypenny:

12.3.1 for death or personal injury resulting from negligence;

12.3.2 for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by Moneypenny; and

12.3.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

12.4 Subject to clause 12.3, Moneypenny shall not be liable in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise for loss of profits, loss of business, depletion of goodwill and/or similar losses, loss of anticipated savings, loss of goods, loss of contract, loss of use, loss of information/data or any special, indirect, consequential or economic loss, costs, damages, charges or expenses.

12.5 Subject to clause 12.3, Moneypenny's total liability to the Customer for all claims or liabilities arising in a Contract Year (in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance of the Contract) shall not exceed one hundred per cent (100%) of the aggregate amounts paid or payable under the Contract by the Customer during that Contract Year subject to a minimum of £500.

12.6 Subject to clause 12.3, unless the Customer notifies Moneypenny that it intends to make a

claim in respect of an event within 12 months of the event, then Moneypenny shall have no liability for that event. The Customer's notice to Moneypenny must be in writing and must identify the event and the grounds for the claim in reasonable detail.

## 13. SUPPLY CHAIN

13.1 Moneypenny shall in respect of each Contract comply with all Relevant Anti-Slavery Requirements and shall not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK.

## 14. ANTI-BRIBERY AND CORRUPTION MEASURES

14.1 Moneypenny shall in respect of the performance of each Contract comply with all applicable Anti-Bribery and Corruption Requirements and shall not engage in any activity, practice or conduct which would constitute any breach of or any offence under any applicable Anti-Bribery and Corruption Requirements.

## 15. NO OFFERS OF EMPLOYMENT

In order to protect the legitimate business interests of Moneypenny, for the duration of the Contract and for a period of 6 months after its termination, the Customer shall not without the prior written consent of Moneypenny, solicit the employment of any person employed by Moneypenny in the course of developing, supplying, maintaining or supporting the Services, other than by means of a national advertising campaign open to all-comers and not specifically targeted at such staff of Moneypenny. If the Customer commits a breach of this clause, it shall pay on demand to Moneypenny a sum equal to 6 month's basic salary of the relevant employee plus the recruitment costs incurred by Moneypenny.

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The parties confirm that these liquidated damages are reasonable and proportionate to protect the legitimate interest of Moneypenny.

## **16. PROPRIETY**

**16.1** The Customer agrees that it will not use the Services for any matter which in the reasonable opinion of Moneypenny constitutes any improper, immoral or illegal purpose and confirms that such use constitutes grounds for immediate termination of the Services by Moneypenny.

**16.2** The Customer undertakes not to send or deliver or cause to be delivered to Moneypenny's premises any noxious, harmful, illegal, immoral, perishable, dangerous or bulky items or materials and in the event of such a delivery Moneypenny reserves the right to refuse to accept the items or materials.

## **17. FORCE MAJEURE**

**17.1** Moneypenny shall not be liable for failure to perform obligations, if under the Contract, that failure results from any circumstances beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of Moneypenny or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, earthquake or default of suppliers or subcontractors ("Force Majeure Event"), provided it:

**17.1.1** has taken all reasonable steps to prevent and avoid the Force Majeure Event;

**17.1.2** takes all reasonable steps to overcome and mitigate the effects of the Force Majeure Event as soon as reasonably practicable;

**17.1.3** on becoming aware of the Force Majeure Event, promptly informs the Customer in writing of the Force Majeure Event, the known or anticipated impact of the Force Majeure Event and with a

reasonable estimate of the period during which the Force Majeure Event will continue;

**17.1.4** as soon as is reasonably practicable after becoming aware of the Force Majeure Event, provides written confirmation and reasonable evidence of the Force Majeure Event to the Customer; and

**17.1.5** notifies the Customer when the Force Majeure Event has concluded.

## **18. ASSIGNMENT**

**18.1** Moneypenny may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

**18.2** The Customer may not assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract, without the prior written consent of Moneypenny.

## **19. ENTIRE AGREEMENT**

**19.1** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

**19.2** Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

**19.3** Nothing in this clause shall limit or exclude any liability for fraud.

## **20. VARIATION**

**20.1** Except as set out in these Conditions, no

variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**20.2** Moneypenny may vary the Specification, these Conditions and/or the Services Specific Terms on no less than 30 days' prior notice to the Customer.

## **21. WAIVER**

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

## **22. SEVERANCE**

If any provision or part-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.

## **23. NOTICES**

**23.1** Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by fax to its main fax number or sent by email to the address specified by the relevant party.

**23.2** Any notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service, at 9:00am on the second Business Day after posting or at the time recorded by the delivery service; or, if sent by fax or email, at 9:00am on the next Business Day after transmission.

**23.3** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

## **24. THIRD PARTY RIGHTS**

Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of the Contract.

## **25. GOVERNING LAW AND JURISDICTION**

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

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

# Appendix

## Money Penny - Services Specific Terms

These Services Specific Terms supplement the Conditions, which governs the Customer's use of Services. Any capitalised words that are used but not defined in these Services Specific Terms shall have the meanings given to them in the Conditions.

### A) UK Telephone Answering

#### 1. INTERPRETATION

**1.1** This section A relates to UK Telephone Answering Services that Money Penny provides to the Customer.

#### 1.2 Definitions:

##### Initial Term

If the Customer is on or below a 150 scheme, 3 months

If the Customer is on or between a 250 to 1,000 scheme, 6 months

If the Customer is on or above a 1,500 scheme, 12 months

##### Required Notice Period

If the Customer is on or below a 150 scheme, 1 month from the date of the next invoice

If the Customer is on or above a 250 scheme, 3 months from the date of the next invoice

##### Services

means any of the telephone answering and outbound call services supplied by Money Penny to the Customer to include the receiving of telephone, fax or email messages from clients or contacts of the Customer which are intended for the Customer, follow-up outbound calls to such clients and contacts and the dispatch to the Customer of information relating to such messages or calls by telephone, post, fax, email or text.

#### 2. SUPPLY OF SERVICES

**2.1** The number of minutes, telephone calls and outbound calling hours identified in the scheme chosen by the Customer are limited to the month in which they are allocated and cannot be rolled over into subsequent months.

**2.2** Any minutes or telephone calls over the amount identified in the scheme chosen by the Customer will be serviced by Money Penny subject to available capacity.

**2.3** In the event of a material increase in the

amount of calls received for the Customer outside of the amounts within the scheme chosen by the Customer, Money Penny reserves the right to temporarily suspend the Services and shall inform the Customer of this decision orally or in writing as soon as reasonably practicable.

#### 3. TELEPHONE ANSWERING

**3.1** In the event that Services relating to telephone answering and outbound calls are specified in the scheme chosen by the Customer, or in the event that Money Penny provides any telephone answering or outbound call services to the Customer:

**3.1.1** it is the Customer's responsibility to ensure that the divert facility is properly set up by their network provider to ensure that the respective call traffic is directed to the appropriate Money Penny telephone number; and

**3.1.2** it is the Customer's responsibility to ensure that all medium or means required to receive communications is fully operational.

#### 4. CHARGES AND PAYMENT

##### 4.1 Per-Call Services Plan:

**4.1.1** If the Customer is on a Per-Call Services Plan (i.e. whereby calls are payable on a per-call basis), at the end of each month, Money Penny will count the number of calls answered and logged for the Customer over the preceding month (but excluding any calls that are "dead air" calls where there is no apparent caller as these are not chargeable). If the number of calls answered and logged in a month is greater than the number of calls covered by the Customer's Per-Call Services Plan, the Customer will be billed in addition for these out of plan calls at the agreed per-call rates in effect at the date of billing.

**4.1.2** Any outbound calls made by Money Penny on behalf of the Customer are excluded from any Per-Call Services Plan and shall be charged at the

agreed rates in effect at the time of billing.

##### 4.2 Per-Minute Services Plan:

**4.2.1** If the Customer is on a Per-Minute Services Plan (i.e. whereby calls are payable on a timed basis), each answered and logged call will be rounded up in 15 second increments (but excluding any calls that are under 5 seconds in duration as these are not chargeable). At the end of each month, Money Penny will calculate the aggregate of all 15 second increments incurred for the Customer for calls answered and logged over the preceding month and rounds this value up to the nearest minute. If the number of minutes recorded is greater than the number of minutes covered by the Customer's Per-Minute Services Plan, the Customer will be billed in addition for these out of plan minutes at the agreed per-minute rates in effect at the date of billing.

##### 4.3 Transfer Charges

All transferred, patched or re-routed calls, and the duration of those calls linked to your account, will be charged and will be identified separately on your invoice. The rates are currently 7p per minute to UK landlines and 21p per minute to UK mobile numbers, international numbers are charged at 50p per minute. These call transfer charges will be invoiced monthly, in arrears.

## B) UK Workhub

### 1. INTERPRETATION

**1.1** This section B relates to UK Workhub Services that Moneypenny provides to the Customer.

#### 1.2 Definitions:

##### Address

20-22 Wenlock Road, London N1 7GU

##### Initial Term

In the case of a Workhub membership subscription, 1 month

In the case of a private office rental, 3 months

##### Member

any person, company or organisation who subscribes to a Workhub membership plan

##### Required Notice Period

In the case of a Workhub membership subscription, 1 month

In the case of a private office rental, 3 months

##### Services

means the Workhub facilities including access to office space, workstations, internet access, office equipment and kitchen facilities supplied by Moneypenny to the Customer.

### 2. SUPPLY OF SERVICES

#### 2.1 Use of Workhub Services:

**2.1.1** Moneypenny shall provide access to the Workhub Services on Business Days between 8am and 8pm. Moneypenny reserves the right to make changes to the opening hours and days of the Workhub.

**2.1.2** Customers must not participate in any illegal activity or any activity that causes disruption to other customers at the Address.

#### 2.2 Internet Usage:

**2.2.1** Use of the Workhub Services requires Customers to be wholly compliant with the Digital Economy Act 2010 when using the free internet access provided.

**2.2.2** Appropriate use of the internet is expected

by Customers. You must try and avoid excessive or unnecessary internet use, and be mindful of downloading files that may slow down the Wi-Fi for other users.

**2.2.3** You are responsible for implementing necessary procedures and virus checks (including anti-virus checks and other security checks) to satisfy particular requirements for the accuracy and security of the data input and output.

**2.2.4** In the event that Moneypenny experiences any issues with the provision of internet connectivity (whether temporary suspension or otherwise) Moneypenny will not accept any liability or be held responsible for any loss or damage to a Customer as a result of internet connectivity issues.

#### 2.3 Workhub Day Passes:

**2.3.1** Guests are welcome provided they have a Workhub day pass. They will need to provide identification on their first visit and create a Workhub account.

**2.3.2** Moneypenny reserves the right to issue Workhub day passes free of charge to its existing Customers on a monthly basis. Such passes are to be used at company level and not for the employee's personal use. Moneypenny clients are entitled to a maximum of 20 day passes per month per company. Moneypenny reserves the right to withdraw or amend Workhub coworking offers for Moneypenny and/or non-Moneypenny clients at any time.

**2.3.3** Any Workhub pass received is non-transferable between Moneypenny clients and any unused passes cannot be rolled over into the next month.

**2.3.4** Workhub day passes are strictly for use in the designated coworking space and cannot be used as payment in whole or part of any private meeting rooms, mailing addresses or any other service offered by Moneypenny.

#### 2.4 Membership Plans:

**2.4.1** Monthly access allowances start on the day the membership subscription payment is received.

**2.4.2** Workhub membership subscription charges are payable in advance by direct debit or by credit/debit card and run for a calendar month and renew automatically.

**2.4.3** Membership plans may be upgraded at any time through your Account Manager at Moneypenny. To downgrade your membership plan to a lower priced package requires 1 month's written notice. The new plan will start immediately after the notice period.

**2.4.4** Payment for any other Service(s) provided to Members must be made in advance by credit card or in arrears by direct debit as advised at the point of ordering or booking the Service(s).

#### 2.5 Printing Facilities:

**2.5.1** Members are entitled to use copying, printing and document scanning facilities. Printing and copying facilities are limited to 50 colour and 100 black and white copies per month as part of the membership plan. Should printing, copying and scanning requirements exceed this then additional monthly charges will be incurred.

#### 2.6 Lockers:

**2.6.1** Lockers can be hired on a monthly basis by Members. If a Member does not remove property from the locker at the end of the rental period or allows rental charges to fall into arrears then Moneypenny has the right to remove and dispose of any such property and shall incur no liability to the Member.

**2.6.2** Locker keys must be returned on the final day of the membership subscription period, failure to do so will result in a £15 charge.

**2.6.3** Members accept that when using locker facilities, their goods are stored entirely at their own risk and Moneypenny accepts no liability

whatsoever for the safety or security, or for the loss of (including by theft), or damage to any property stored in any locker.

**2.6.4** Moneypenny reserves the right to open (including by force) any locker and to inspect and/or remove the contents of any locker if it suspects it is being used in a manner which is inconsistent with the Workhub objectives. Moneypenny shall have the right to draw the contents of any locker to the attention of any relevant authority should it deem it appropriate to do so.

#### 2.7 Use of Meeting Rooms:

**2.7.1** Members are eligible to book private meeting rooms, subject to availability.

**2.7.2** A booking is confirmed once full payment (by credit card or the use of a credit token) has been received. If payment is not received prior to the event, you cannot use the room.

**2.7.3** Should a meeting run over the length of time booked, the Member will be charged for the additional time. Moneypenny reserves the right to cancel any future bookings made by you if there are any unpaid invoices on your account.

**2.7.4** No refunds will be given for cancellation or failure to use the booking.

**2.7.5** Moneypenny reserves the right to transfer bookings to alternative rooms of similar price, size and quality in the event the original room is inaccessible.

**2.7.6** Any damage caused to the space or equipment during your booking is your responsibility and will be chargeable.

**2.7.7** Food may be purchased externally, however it is your responsibility to clean up and dispose of any rubbish.

### 3. CHARGES AND PAYMENT

**3.1** All sums due to Moneypenny under the Contract shall be payable within 7 days of receipt of Moneypenny's invoice.

3.2 Moneypenny is not obliged to refund any amounts for a period when membership is unused.

#### 4. LIABILITY

4.1 Moneypenny shall not be liable for loss or damage to Members' property (or that of visitors).

### C) UK Pocket Phone System

#### 1. INTERPRETATION

1.1 This section C relates to UK Pocket Phone System Services that Moneypenny provides to the Customer.

#### 1.2 Definitions:

##### Required Notice Period

1 month from the date of the next invoice.

##### Services

The provision of a virtual phone system application.

#### 2. SUPPLY OF SERVICES

##### 2.1 Inclusive Minutes:

2.2 Inclusive minutes refer to outbound transfers to a number listed in a recipient and are calculated from the minute the call is answered to the minute the call is disconnected.

2.3 Inclusive minutes do not include calls to Moneypenny Answering or outbound calls made from the Moneypenny app.

#### 3. DURATION

3.1 The Contract shall commence on the Commencement Date and, unless otherwise agreed in writing and subject to clause 6.3 of the Conditions, it shall continue in force and effect unless and until terminated on written notice by either party to the other party on no less than the Required Notice Period. There is no Initial Term.

### D) UK Outbound Calling

#### 1. INTERPRETATION

1.1 This section D relates to UK Outbound Calling Services that Moneypenny provides to the Customer.

#### 1.2 Definitions:

##### Initial Term

If the Customer is below a 100-hour scheme,

3 months

If the Customer is on or above a 100-hour scheme,

6 months.

##### Required Notice Period

If the Customer is below a 50-hour scheme,

1 month from the date of the next invoice.

If the Customer is on or above a 50-hour scheme,

3 months from the date of the next invoice.

##### Services

The making of outbound calls, emails and SMS by Moneypenny on behalf of the Customer to client or prospects of the Customer.

##### Outbound Transfer Call Charge

Any calls made to international numbers, and the duration of those called linked to the account, will be charged and will be identified separately on your invoice. The rates are currently 50p per minute. These call transfer charges will be invoiced monthly, in arrears.

### E) UK Mail Forwarding

#### 1. INTERPRETATION

1.1 This section E relates to UK Mail Forwarding Services that Moneypenny provides to the Customer.

#### 1.2 Definitions:

##### Address

20-22 Wenlock Road, London N1 7GU

##### Initial Term

6 months

##### Required Notice Period

1 month from the date of the next invoice.

##### Services

The provision of the Address to be publicised by the Customer. Moneypenny will receive mail on behalf of the Customer and forward the mail to the Customer's desired address.

#### 2. SUPPLY OF SERVICES

##### 2.1 Use of the Address:

2.1.1 Moneypenny offers only a business correspondence address for receiving and forwarding mail. The Customer must not imply that they have a physical presence at the Address.

2.1.2 If a Customer's client or supplier visits the Address, we will inform them that it is not their trading address. Customers may not use our Address for immoral or illegal purposes, according to the laws of the England and Wales.

##### 2.2 Mail Handling:

2.2.1 Moneypenny will handle mail delivered to the Customer at the Address in accordance with instructions received from the Customer during the sign-up process.

2.2.2 Moneypenny will use reasonable endeavours to filter out any 'junk mail' including, but not limited to, mass mail drops, promotional materials and catalogues, and return these to sender.

2.2.3 Moneypenny considers magazine subscriptions to be junk mail and is not part of the



Mail Forwarding Service.

**2.2.4** If the Customer exceeds their mail allowance during the month, Moneypenny reserves the right to:

- a) increase the Customer's plan to the next appropriate level the following month; or
- b) charge the Customer for the additional volume of mail received as per Moneypenny's current price list.

**2.2.5** No warranties are given regarding the availability of Moneypenny staff or representatives to be available to sign for or forward mail delivered to the Address outside of Business Days.

**2.2.6** In the event that mail delivered at the Address marked in a way that Moneypenny is unable to ascertain from the outside packaging who the addressee is, Moneypenny reserves the right to open such mail to determine for whom it is intended.

### **2.3 Collection:**

**2.3.1** Mail may be available for collection from the Address by prior written agreement with Moneypenny. Items for collection must take place on a Business Day between 9:00am – 5:00pm.

**2.3.2** The Customer must confirm the name of the individual who is collecting mail from the Address on their behalf and the individual must present proof of identity to Moneypenny.

**2.3.3** Any mail being held at the Address for collection by the Customer will be held for a maximum of 30 days after which it will be returned to sender.

### **2.4 Physical Forwarding:**

**2.4.1** Mail delivered at the Address for the Customer will be re-enveloped and forwarded by the same class post as it was received by Moneypenny (i.e. if the mail was sent first class, it will be forwarded first class), to the address specified by the Customer.

### **2.5 Digital Forwarding:**

**2.5.1** If the digital forwarding service is chosen by the Customer, the Customer acknowledges that in selecting this service, they give Moneypenny express authority to open all mail received at the Address for the Customer, scan its contents and email the same to the Customer at an email address specified by the Customer.

**2.5.2** Moneypenny accepts no liability for any issues which may arise as a result of the scanned letters being intercepted by malicious online activity.

**2.5.3** Any mail which contains a cheque, bank card, court document, or any other item of mail which Moneypenny deems to be of value, will be forwarded to the Customer by special delivery.

### **2.6 Parcel and Special Delivery Items:**

**2.6.1** Parcels received at the Address are not included within a Customer's mail forwarding plan.

**2.6.2** A parcel is defined as any item weighing over 1kg. Moneypenny will not accept any items weighing more than 10kg or larger than 60cm x 60cm in dimension. Moneypenny does not have the storage facilities to store large parcels at the Address for Customers.

**2.6.3** Depending on the size and weight of a parcel, Moneypenny will typically send these items out by Royal Mail special delivery or courier service. Moneypenny will do its best to ensure that parcels are handled with care, however no guarantees or compensation will be offered for fragile items, such as glass, which may be damaged in transit.

**2.6.4** Any mail received at the Address for a Customer which has to be signed for will be forwarded on by special delivery or a courier of Moneypenny's choice.

**2.6.5** Items sent by courier will not be left with a neighbour if they cannot be delivered to the specified Address. The Customer must make

arrangements with the courier directly to arrange redelivery or collection of their item.

**2.6.6** Moneypenny will not be responsible for completing any waybills on the Customer's behalf for alternative couriers.

**2.6.7** The postage for any items to be sent out by courier or special delivery weighing over 1kg must be paid for in advance. Moneypenny will email the Customer when such a parcel arrives to request payment. Upon receipt of payment, the item will be sent out.

**2.6.8** Moneypenny will not be held liable for loss of parcels sent out from the Address. Moneypenny does not insure outgoing parcels, however it is highly recommended that the Customer opts to add-on insurance which Moneypenny offers before the item is posted. We highly recommend taking out this insurance if your items are of value. The cost of insurance is 2% of the product value with a minimum of £20.

### **2.7 Returned Parcels:**

**2.7.1** If the courier is unable to deliver a parcel, they will leave you a card with details on where you can collect your parcel and for how long they will hold the item.

**2.7.2** In the event of failure by the Customer to collect the item within their specified time period, the parcel will be returned to the Address. The charge for this return will be applied to the Customer's account. Moneypenny will require payment of this charge by the Customer before it can be arranged to have the item resent (at the standard cost).

## **3. IDENTITY REQUIREMENTS**

**3.1** Moneypenny's Mail Forwarding Services are subject to client identification legislation including The London Local Authorities Act and Know Your Client rules. Moneypenny follows an Anti-Money Laundering Policy which applies to all Customers.

**3.2** Prior to the Commencement Date, Customers must provide proof of identification and proof of address documents. A list of accepted documents will be provided by Moneypenny. Documents must be certified by a solicitor, accountant, post office, local council, doctor, minister of religion or notary (accompanied by a relevant stamp). Customers outside of the UK and EU will need to provide documents notarised by a Public Notary.

**3.3** ID must be received by Moneypenny within 10 days of the initial payment. Failure to provide the required documents in the allotted time will result in the termination of your account.

**3.4** A Customer's account will not be active until your ID has been received and accepted by Moneypenny. Mail Forwarding Services will not commence until Moneypenny has confirmed that your account has been activated.

**3.5** Any mail received before the account has been activated cannot be processed and will have to be returned to sender.

## F) UK Live Chat

### 1. INTERPRETATION

1.1 This section F relates to UK Live Chat Services that Moneypenny provides to the Customer.

### 1.2 Definitions:

#### Initial Term

If the Customer is on or below a 150 scheme, 3 months

If the Customer is on or above a 250 scheme, 6 months

#### Required Notice Period

If the Customer is on or below a 150 scheme, 1 month from the date of the next invoice

If the Customer is on or above a 250 scheme, 3 months from the date of the next invoice

#### Services

any of the live chat services supplied by Moneypenny to the Customer to include the supply of a live chat communication platform and the fulfilment of text-based communications via the platform on behalf of the Customer with the Customer's Visitors.

### 2. SUPPLY OF SERVICES

2.1 In the event of a material increase in the amount of chats received for the Customer outside of the amounts within scheme chosen by the Customer, Moneypenny reserves the right to temporarily suspend the Services and shall inform the Customer of this decision orally or in writing as soon as reasonably practicable.

### 2.2 Technical Set-up:

2.2.1 It is the Customer's responsibility to ensure that any technical instructions provided by Moneypenny are adequately adhered to, which can include but not limited to; adding live chat code to a Customer's website, or providing access to third party software which will enable Moneypenny to receive communications from our Customer's Visitors via the live chat communications platform.

### 2.3 Diversion Facility:

2.3.1 It is the Customer's responsibility to ensure that the code is added correctly to the website to ensure that the respective Visitor traffic is directed to the appropriate Moneypenny Live Chat account.

2.3.2 It is the Customer's responsibility to ensure that all medium or means required to receive communications is fully operational.

## G) UK Clever Numbers

### 1. INTERPRETATION

1.1 This section G relates to UK Clever Numbers Services that Moneypenny provides to the Customer.

### 1.2 Definitions:

#### Required Notice Period

1 month from the date of the next invoice.

#### Services

The provision of a virtual business phone number which allows for the onward forwarding of calls to the Customer's preferred UK mobile or landline number.

### 2. CUSTOMER REQUIREMENTS

2.1 It is the Customer's responsibility to ensure that the divert facility is properly set up by their network provider to ensure that the respective call traffic is directed to the appropriate Moneypenny telephone number.

2.2 It is the Customer's responsibility to ensure that all medium or means required to receive communications is fully operational.

### 3. DURATION

3.1 The Contract shall commence on the Commencement Date and, unless otherwise agreed in writing and subject to clause 6.3 of the Conditions, it shall continue in force and effect unless and until terminated on written notice by either party to the other party on no less than the Required Notice Period. There is no Initial Term.

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0333 202 1005

hello@moneypenny.co.uk

moneypenny.co.uk

Callitech Limited trading as Moneypenny.  
Registered in England 3894972  
VAT Registration Number 974 871957