

**Camden's House**

**Terms and Conditions**

(Applicable from 1 January 2024)

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## 1. Definitions and interpretation

The following definitions and rules of interpretation apply in these Conditions.

### 1.1 Definitions:

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

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

**Commencement Date:** has the meaning given in clause 2.2.

**Conditions:** these terms and conditions.

**Contract:** the contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

**Control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**Customer:** the person or firm who purchases Services from the Supplier.

**Customer Default:** has the meaning set out in clause 4.2.

**Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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 from the Supplier as ordered online, by phone or in person.

**Services:** the services supplied by the Supplier to the Customer.

**Supplier:** The Big Green Wall Limited (trading as 'Camden's House'), registered in Scotland with company number SC772666.

### 1.2 Interpretation:

- (a) References to clauses and the Schedule are to the clauses of and the Schedule to these Conditions.

- (b) The Schedule forms part of these Conditions and any reference to these Conditions includes the Schedule.
- (c) A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time. A reference to legislation or a legislative provision shall include all subordinate legislation made from time to time under that legislation or legislative provision.
- (d) 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.
- (e) A reference to **writing** or **written** includes fax and email.

## **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 (creating the "Contract") when the Supplier confirms agreement to the Order, such agreement may be confirmed by accepting payment from the Customer, booking the Customer in for an appointment, acknowledging the Order in writing, or carrying out the Services (whichever comes first) (**Commencement Date**).
- 2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier'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 or have any contractual force.
- 2.4 These Conditions shall apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by the Supplier shall not constitute an offer.

## **3. Supply of Services**

- 3.1 The Supplier shall supply the Services to the Customer in accordance with the agreed Order.
- 3.2 The Customer recognises and agrees that the Supplier does not provide medical advice or diagnosis of any kind. The Customer recognises and agrees that the Services are general wellness and performance services carried out using machines which are not medical devices and are not intended to diagnose, treat, cure or prevent any particular medical condition or disease. The Supplier makes no guarantee or warranty of any particular outcome for the Customer and makes no medical claims. The Customer recognises and agrees that any medical

advice or diagnosis must be sought from a qualified medical practitioner and the Supplier will not provide any such advice or diagnosis. If the Customer is unsure of the suitability of the Services for them, they are recommended to seek professional medical advice.

- 3.3 The Supplier reserves the right to amend the Order if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event. The Customer shall have the right to cancel the Order in the event of such amendment.
- 3.4 The Supplier reserves the right to amend any booking time for the provision of Services, provided however if such change is made then the Customer will be entitled to revoke the Order for the booking and receive a full refund in respect of that booking.
- 3.5 The Supplier reserves the right to refuse to provide the Services if the Customer has failed to provide any information reasonably requested by the Supplier (including any Declaration Form) or the content of the information provided by the Customer is such that the Supplier considers, in its sole discretion, that it is not appropriate to proceed with the Services.

#### **4. Customer's obligations**

- 4.1 The Customer shall:
  - (a) co-operate with the Supplier in all matters relating to the Services; and
  - (b) provide the Supplier with such information as the Supplier may reasonably require (including required Declaration Form) to supply the Services safely, and ensure that such information is complete and accurate in all material respects. It is the Customer's responsibility to inform the Supplier if any circumstances referred to in the Declaration Form changes.
- 4.2 If the Supplier'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) without limiting or affecting any other right or remedy available to it, the Supplier shall 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 in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
  - (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and

- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

## **5. Charges and payment**

- 5.1 The Charges for the Services shall be those as set out in its current price list at the date of the Contract displayed on its website (or booking system supplier's website) and set out in the Order;
- 5.2 The Supplier reserves the right to increase the Charges, but for ongoing supply of Services 30 days' notice of a change in the Charges shall be given to the Customer.
- 5.3 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

## **6. Intellectual property rights**

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Customer) shall be owned by the Supplier.

## **7. Data protection**

The parties shall comply with their data protection obligations as set out in the Schedule.

## **8. Limitation of liability:**

- 8.1 Restrictions on liability in this clause 8 include every kind of liability arising under or in connection with the Contract including liability in contract, delict, under statute or otherwise (including liability arising from negligence).
- 8.2 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:
  - (a) death or personal injury caused by negligence;
  - (b) fraud or fraudulent misrepresentation; and
  - (c) breach of the terms implied by section 11B of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.3 Subject to clause 8.2 (Liabilities which cannot legally be limited), the Supplier's total liability to the Customer:
  - (a) for damage to property caused by the negligence of its employees and agents in connection with this agreement shall not exceed five times the price of the Services in question for any one event or series of connected events;

- (b) for loss arising from the Supplier's failure to comply with its data processing obligations under clause 7 shall not exceed £2,000; and
- (c) for all other loss or damage shall not exceed £1,000,000.

8.4 Subject to clause 8.2 (Liabilities which cannot legally be limited), the Supplier is not liable to the Customer for any:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

8.5 The Supplier is not liable for any loss or injury caused by a failure of the Customer to provide to the Supplier accurate information which is requested by the Supplier in advance of the Services.

8.6 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 3. In view of these commitments, the terms implied by sections 11C, 11D and 11E of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.7 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 12 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

8.8 The Customer agrees that the Supplier's officers and employees shall have no liability at all in connection with the Services.

8.9 This clause 8 shall survive termination of the Contract.

## **9. Termination / Cancellation**

9.1 The Supplier's Cancellation Policy, from time to time, as accessed from the Supplier's website ([www.camdenhouse.com](http://www.camdenhouse.com)) shall be applicable.

- 9.2 A Customer who has purchased a membership service (a regular commitment to purchase the Services as advertised on the Supplier's website) is committed to continuing with the membership service for a minimum of 12 weeks from agreement of the Order. After that initial period, the Customer may terminate the membership service at any time.
- 9.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.
- 9.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Services under the Contract or any other contract between the Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the due date for payment.

## **10. Consequences of termination**

- 10.1 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, 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.
- 10.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

## **11. General**

- 11.1 Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

### **11.2 Confidentiality**

- (a) The Supplier shall not at any time disclose to any person any confidential information concerning the Customer except as permitted by clause 11.2(b).
- (b) The Supplier may disclose the other party's confidential information:
- (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 11.2; and
  - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.



### 11.3 Entire agreement

- (a) 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.
- (b) 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 based on any statement in the Contract.

11.4 **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 right or remedy. 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.

11.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this Contract is deleted under this clause 11.5 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

11.6 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contract (Third Party Rights) (Scotland) Act 2017 for any third party to enforce or otherwise invoke any term of the Contract.

11.7 **Governing law.** 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 Scotland.

11.8 **Jurisdiction.** Each party irrevocably agrees that any dispute or difference or claim (including non-contractual disputes or claims) arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and determined under the Scottish Arbitration Rules in Schedule 1 of the Arbitration (Scotland) Act 2010. The seat of arbitration shall be Scotland.

**This is the Schedule referred to in the foregoing terms and conditions**

**1. DATA PROTECTION**

**DEFINITIONS**

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.

**Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended 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);.

**Domestic Law:** the law of the United Kingdom or a part of the United Kingdom.

**EU GDPR:** the General Data Protection Regulation ((EU) 2016/679).

**EU Law:** the law of the European Union or any member state of the European Union.

**UK GDPR:** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

**1. DATA PROTECTION**

- 1.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 1.2 The end of this Schedule sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 1.3 Without prejudice to the generality of clause 1.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:
  - (a) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and

services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

- (b) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (c) not transfer any Personal Data outside of the UK unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
  - (i) the Customer or the Provider has provided appropriate safeguards in relation to the transfer;
  - (ii) the data subject has enforceable rights and effective legal remedies;
  - (iii) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (iv) the Provider complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
  - (v) However, the Customer hereby agrees that its Personal Data may be held on cloud-based systems (including the Supplier's booking system) which may be outside of the UK.
- (d) 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 the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the Customer without undue delay on becoming aware of a Personal Data Breach;
- (f) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law to store the Personal Data; and
- (g) maintain complete and accurate records and information to demonstrate its compliance with this clause.

1.4 The Customer consents to the Supplier appointing Helmbot (booking system supplier) as a third-party processor of Personal Data under this agreement. The Provider confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

## **1. Processing by the Provider**

### **1.1 Scope**

Information relating to the use of services of the Supplier and of the Customer's goals and objectives in relation to the Services.

### **1.2 Nature**

The information will be stored on the Supplier's IT systems and read from time to time by employees of the Supplier to assist in the supply of Services to the Customer.

### **1.3 Purpose of processing**

To assist in the supply of Services to the Customer.

### **1.4 Duration of the processing**

For so long as the Customer remains a user of Services from the Supplier and for a period of five years thereafter. All information will be kept secure and confidential at all times.

## **2. Types of Personal Data**

Name, address, other contact details, notes relating objectives of the Customer in relation to the Services, booking information regarding the Services.