



KEANE CREATIVE LTD  
TERMS AND CONDITIONS



Keane Creative Ltd  
Hayfield Lane Business Park  
Doncaster  
DN9 3FL

Tel: 01302 590 560  
[www.keanecreative.co.uk](http://www.keanecreative.co.uk)

## TERMS FOR THE SUPPLY OF SERVICES

Date:

Keane Creative Limited wish to establish an ongoing relationship with the Customer. To make this as simple as possible the parties agree that these Terms (or as amended as set out in clause 16.11) will apply whenever a Service Request is agreed and signed.

### These Terms are agreed between;

- (1) Keane Creative Limited, a company registered under company number 03443041 of registered office Unit 2, Hayfield Lane Business Park, Doncaster, South Yorkshire DN9 3FL ("KEANE"); and
- (2) [Insert name of customer] a company registered under of registered office ("Customer").

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### Terms

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1. Marketing, public relations, consultancy (other) and training
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### Request Form (Blank)

### Change Control Form (Blank)

Signed on behalf of KEANE CREATIVE LIMITED	Signed on behalf of THE CUSTOMER
Signed .....	Signed .....
Name .....	Name .....
Position .....	Position .....
Date .....	Date .....



## Terms and Conditions

### 1. Interpretation

The following terms shall have the meanings set out below in these Terms or a Service Request.

DEFINED TERM	MEANING
Change Control	The change control process set out in clause 6.
Extra Fees	Based on KEANE's current hourly rates plus reasonable expenses.
Fees	Fees specified in a Service Request and including Extra Fees where appropriate;
Intellectual Property Rights	All copyrights (including copyright in computer software), source code, database rights, rights in inventions, patents, trademarks, trade names, service marks, design rights (whether registered or unregistered), trade secrets, rights in confidential information and all other industrial or intellectual property rights of whatever nature excluding patent applications and know-how.
Corporate Subscriber	as defined by the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended (namely an incorporated body (Ltd /LLP etc);
Customer Materials	Texts, graphics or picture files, audio-visual content, data (including marketing lists) or any other material provided by the Customer.
Data Protection Legislation	(i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.
KEANE Materials	Texts, graphics or picture files, audio-visual content, data or any other material sourced or created by KEANE.
Pre- Existing Materials	Materials which existed before the commencement of the Services or are owned by third parties.



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<b>Printed Materials</b>	Any printed materials (including but not limited to paper, card or any marketing merchandise) supplied by KEANE in line with Proofs.
<b>Proof</b>	Copy, layouts, scripts, storyboards, designs and site maps and the like provided to the Customer for approval and sign off.
<b>Services</b>	Services provided by KEANE in accordance with these Terms and a Service Request.
<b>Service Request</b>	As set out in clause 2 and whereby the parties agree the Services to be provided from time to time.
<b>Specification</b>	Document specifying the detail for the Website or Printed Material.
<b>Terms</b>	These terms and the Schedules attached or the latest version as shown on the website <a href="http://www.keanecreative.co.uk">www.keanecreative.co.uk</a>
<b>Website</b>	Website developed by KEANE in accordance with the Specification.
<b>Website Services</b>	Website services as set out in Schedule 4. This includes hosting if selected by the Customer.



In the event that any provision in an agreed Service Request conflicts with these Terms, the provisions of the Service Request will over-ride these Terms. These Terms set out the default position.

## **2. Agreeing a Service Request**

- 2.1 When Services are requested by the Customer, KEANE shall provide the Customer with a Service Request.
- 2.2 The Service Request will be signed by the parties and as such the Service Request(s) shall stand as KEANE's authority to invoice as appropriate.
- 2.3 KEANE shall be under no obligation to perform any Services until a Service Request is agreed but when KEANE is requested to commence Services prior to Service Request signature on the verbal or written instructions of the Customer, these Terms shall apply, including all payment terms.

## **3. KEANE Obligations**

- 3.1 KEANE shall provide the Services in accordance with these Terms.
- 3.2 KEANE shall use reasonable endeavours to comply with any dates set out in a Service Request or otherwise communicated by the Customer. However, time shall not be of the essence in relation to any agreed date.

## **4. Customer Obligations**

- 4.1 The Customer or Customer's representative shall co-operate with KEANE at all times to include (without limit) attendance at relevant meetings, dealing promptly with all reasonable requests for information by KEANE, sign off of deliverables promptly, and co-ordinating key people (Customer staff) as appropriate to a Service Request.
- 4.2 Where KEANE works at the Customer's premises or any other premises at the request of the Customer other than KEANE's premises the Customer shall provide KEANE with all information, co-operation and support, key people and such computer facilities, office space, desks, telephones, typing and other office facilities at the Customer's premises) as may be reasonably necessary to enable KEANE to perform the Services and ensure that KEANE's staff (to include any sub-contractors or consultants) have a safe place of work.

## **5. Fees and Payment Terms**

- 5.1 The Customer shall pay the Fees in sterling in accordance with the payment terms. Fees exclude expenses, delivery expenses and VAT which shall be paid by the Customer at the rate, and in the manner prescribed by law.
- 5.2 If any sum payable is not paid by the due date, then (without prejudice to KEANE's other rights and remedies) KEANE reserves the right to;



- 5.2.1 charge interest on that sum on a daily basis (before as well as after any judgment) from the due date to the date of payment at the rate of 15% above the base rate of Barclays Bank plc from time to time in force (in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 as amended; and
- 5.2.2 Terminate or suspend the performance of any Services until payment is made. In such circumstances, the timetable (if any) will be amended to reflect any period of suspension.
- 5.3 KEANE shall be entitled to revise Fees at any time where reasonable and to include any cost increases imposed by the sub-contractor or third party.
- 5.4 KEANE shall be entitled to invoice the Customer in respect of Fees in accordance with the Service Request and the Customer shall pay invoices within 14 days from date of invoice unless otherwise stated and without deductions or set off.
- 5.5 Any deposits shown in a Service Request are non- refundable.
- 5.6 KEANE shall be entitled to recover from the Customer any loss suffered by or caused to KEANE due to none or partial performance of a Service Request arising from any circumstances arising in clause 13, cancellation or otherwise due to suspension/ delay of any delivery of Service howsoever arising.
- 5.7 Notwithstanding clause 5.6 above, where the Service includes training, KEANE shall be entitled to invoice the Customer for 50% of the Fees where the Customer cancels or postpones the Service provision less than 5 days prior to the delivery date or 100% of the Fees where such cancellation is made less than 48 hours before the delivery date and time. In this clause Fees shall also include such costs and disbursements which KEANE is not able to mitigate due to the short notice cancellation.
- 5.8 All quarterly Fees paid in advance for Maintenance and Support and outsourced retainer Service Requests are non-refundable.
- 5.9 Title to deliverables shall only pass to the Customer when all Fees, taxes and other charges set out in a Service Request have been paid in full. Risk in all deliverables shall pass on delivery.

## **6. Change Control**

- 6.1 If the Customer wishes to request or suggest a change to a Service Request at any time, the Customer shall provide KEANE with full written details of the change and any such further information as KEANE shall reasonably require. This includes Specification changes.
- 6.2 KEANE shall then provide the Customer with a Change Control Form as soon as is reasonably practicable specifying how the proposed change will affect the original Service Request (for example changes to Fees, the timetable for delivery and if extra Services will be needed to implement the change).
- 6.3 If KEANE wishes to request or suggest a change at any time, KEANE will provide the Customer with a Change Control Form as provided above for consideration by the Customer.
- 6.4 Within 2 days of receipt of any Change Control Form the Customer may elect either:



- 6.4.1 to accept it, in which case the Service Request shall be changed in accordance with that form; or
- 6.4.2 to withdraw the proposed change in which case the Service Request shall continue in force unchanged.

This time scale may be expedited where circumstances dictate and KEANE shall advise the Customer where this shall apply.

- 6.5 KEANE shall be entitled to charge Extra Fees for considering any changes proposed by the Customer and preparing the Change Control Form.
- 6.6 If the Customer's request for the change at Clause 6.1 is later withdrawn but results in a delay to the performance of Services, KEANE shall not be liable for any consequence of that delay and shall be entitled to an extension of time for performance of its duties equal to the period of the delay.
- 6.7 KEANE shall not be obliged to consider or make any change except in accordance with this procedure.

## **7. Intellectual Property Rights**

- 7.1 Intellectual Property Rights in the Customer Material shall remain the property of the Customer at all times and the Customer grants KEANE a non-exclusive, royalty free licence to use the Customer Material to the extent required to provide the Services.
- 7.2 Subject to clauses 7.3 to 7.4 below, KEANE hereby assigns all Intellectual Property Rights in the Service deliverables including KEANE Material to the Customer.
- 7.3 Clause 7.2 shall only apply to actual deliverables i.e. where KEANE provide options as part of the Service the Customer's rights shall only extend to the selected option.
- 7.4 The Customer acknowledges that Pre-Existing Materials and KEANE Material are not assignable and the Customer's use of the same is conditional upon KEANE obtaining a written end user licence (or sub-licence) of such rights from the relevant licensor(s) on such terms as will entitle KEANE to licence the same to the Customer.
- 7.5 The Intellectual Property Rights to be assigned in clause 7.2 and 7.3 above shall only vest in the Customer when the Customer has paid all due sums in relation to the Service Request and any other outstanding sums to date.
- 7.6 KEANE shall retain all rights to use and Intellectual Property Rights to patent applications and know how associated with the Service Requests at all times.
- 7.7 The Customer hereby grants to KEANE a non-exclusive, royalty free, irrevocable, worldwide licence to use the Intellectual Property Rights referred to in clause 7.2 and 7.3.
- 7.8 Where either party shall acquire, by operation of law, Intellectual Property Rights referred to above and such acquisition is inconsistent with the allocation of Intellectual Property Rights set out in those clauses, such Intellectual Property Rights as it has acquired shall be assigned to the other party on the request of the other party (whenever made).



## 8. Indemnities

The Customer shall, at all times indemnify and hold KEANE harmless against all costs, claims, demands, expenses, penalties and other liabilities arising out of or in connection with any claim that the use or possession of the Customer Material or Specification provided by the Customer in the provision of the Services infringes (i) Data Protection Legislation and particularly clause 9 and Schedule 1 of these Terms or (ii) the Intellectual Property Rights of any third party.

## 9. Data Protection and Privacy

- 9.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 9 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 9.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Keane Creative is the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). Schedule 1 sets out the scope, nature and purpose of processing by Keane Creative, the duration of the processing and the types of personal data (as defined in the Data Protection Legislation, Personal Data) and categories of Data Subject.
- 9.3 Without prejudice to the generality of clause 9.1, the Customer will ensure that it has all necessary appropriate consents (where applicable) and notices in place to enable lawful transfer of the Personal Data to Keane Creative for the duration and purposes of this agreement.
- 9.4 Without prejudice to the generality of clause 9.1 Keane Creative shall, in relation to any Personal Data processed in connection with the performance by Keane Creative of its obligations under this agreement:
  - 9.4.1 process that Personal Data only on the written instructions of the Customer unless, Keane Creative is required by the laws of any member of the European Union or by the laws of the European Union applicable to, Keane Creative to process Personal Data (Applicable Laws). Where Keane Creative is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, , Keane Creative shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Keane Creative from so notifying the Customer;
  - 9.4.2 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);
- 9.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 9.4.4 not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (a) the Customer or Keane Creative has provided appropriate safeguards in relation to the transfer;
  - (b) the data subject has enforceable rights and effective legal remedies;
  - (c) Keane Creative complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
  - (d) Keane Creative complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 9.4.5 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;
- 9.4.6 notify the Customer without undue delay on becoming aware of a Personal Data breach;
- 9.4.7 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 Applicable Law to store the Personal Data; and
- 9.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 9.
- 9.5 Without prejudice to the generality of clause 9.1 the Customer shall, in relation to any Personal Data processed in connection with the performance by Keane Creative;
- 9.5.1 ensure that the data includes only Personal Data relating to Corporate Subscribers
  - 9.5.2 notify Keane Creative without undue delay on receiving any complaint about or objection to receipt of marketing material;
  - 9.5.3 notify the Customer without undue delay on becoming aware of a Personal Data breach;
  - 9.5.4 not send or permit to be sent any direct marketing material to a contact until the contact has been provided with a suitable privacy notice compliant with the Data Protection Legislation and shall advise Keane Creative of any new data lines where this has not been complied with;
- 9.6 Either party may, at any time on not less than 30 days' notice, revise this clause 9 by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).



9.7 The Customer acknowledges that Keane Creative processes certain personal data relating individuals employed by the Customer (namely name, address, other contact details) for the purposes of providing the Services. In addition, Keane Creative also processes this personal data for marketing and general communication purposes (e.g. newsletter) as appropriate to the services requested from time to time. The Customer confirms that it acknowledges that Keane Creative elects to send such material on the basis that the Customer represents that it and all associated contacts are Corporate Subscribers or raise no objection to being treated as a Corporate Subscriber. Full details of Keane Creative's privacy notice including how to unsubscribe from such material and other subject rights can be found at [URL].

## 10. Warranties

- 10.1 Where appropriate to the Service Request, KEANE warrants, that;
- 10.1.1 on delivery the Services will conform to the Specification in all material respects;
  - 10.1.2 Services will be carried out using reasonable care and skill and in accordance with good industry practice;
  - 10.1.3 all staff (employees, sub-contractors, consultants) engaged in the provision of the Services shall be suitably qualified and / or experienced.
- 10.2 Subject to the limited warranty at clause 10.1 and other warranties in the Schedules, KEANE excludes any other warranty or representation whether implied, express, written or oral to the fullest extent permitted by law.
- 10.3 The Customer is responsible for the compliance of all deliverables with all local laws (whether consumer, public or civil), regulations and codes in all countries in which use is intended including, without prejudice to the generality of the foregoing any and all laws relating to data protection, e-commerce, defamation or to the infringement of the intellectual property rights of any person and the Customer shall indemnify and hold KEANE harmless against any claim, demand or action alleging that the deliverables or use of them are contrary to any law, code or regulation in any country or infringe third party rights.

## 11. Limitation of Liability

- 11.1 Nothing in these terms shall operate to exclude or limit either party's liability for death or personal injury caused by its negligence, any 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, fraud; or, any other liability which cannot be excluded or limited under applicable law.
- 11.2 Neither party shall be liable to the other for any loss which shall include (but is not limited to) indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, loss of revenue) costs, damages, charges or expenses.
- 11.3 Subject to clause 11.1 and 11.2 KEANE's liability in respect of claims (including any indemnities) arising out of a Service Request (or a series of related Service Requests) shall be limited to the Fees attributable to the Service Request from which the claim arises, or, in relation to Schedule 4



Services or where the Service Request is in relation to "outsourced retainer" services, a quarter invoice.

- 11.4 In respect of Printed Materials, KEANE shall be under no obligation to refund the Fee or otherwise liable in respect of a warranty claim unless the Customer has given notice of the defect to KEANE no later than 5 working days after delivery of the deliverable and permitted KEANE to inspect the defective Printed Material.

## 12. Confidentiality

Neither party shall, without the authority of the other, disclose to any third party any confidential information concerning the products, customers, business, accounts, finance or contractual arrangements or other dealings, transactions or affairs of the other which may come to that party's knowledge in the course of performing its duties.

## 13. Termination

- 13.1 A Service Request can be terminated by either party giving to the other not less than 14 days' notice in writing. Where the Customer terminates Fees will remain due to KEANE in accordance with clause 5.6 to 5.8 inclusive.
- 13.2 Either party shall have the right by giving written notice to the other to terminate ongoing Service Requests immediately if that other party;
- 13.2.1 commits any material breach of its duties and fails to remedy that breach within 30 days of written notice of that breach (the 30-day period only applies where a breach is capable of remedy – if it is incapable of remedy, the framework agreement and Service Requests may be terminated by written notice straight away); or
  - 13.2.2 as a winding, up petition presented or enters into liquidation whether compulsorily or voluntarily (otherwise that for the purposes of amalgamation or reconstruction without insolvency) or makes an arrangement with its creditors or petitions for an administration order or has a receiver or manager appointed over any of its assets or generally becomes unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986. For the avoidance of doubt, termination under this clause will also terminate these Terms.

## 14. Effect of termination

- 14.1 On termination of Service Requests howsoever arising:
- 14.1.1 KEANE shall return all copies of Customer Materials provided by the Customer in the provision of Services;
  - 14.1.2 The Customer shall immediately pay all outstanding invoices and KEANE shall be entitled to invoice the Customer in respect of work in progress; such invoice payable immediately on receipt; and



- 14.1.3 Any rights of either party which arose on or before termination shall be unaffected.
- 14.2 The Customer shall not, without the prior written consent of KEANE, actively initiate recruitment of any of KEANE staff who have been actively engaged in the provision of Services during the life of, or for a period of 6 months from expiry or termination of, the relevant Service Request.
- 14.3 If the Customer Breaches Clause 14.2, it shall pay KEANE a sum equivalent to half of the individual's gross annual salary in recognition of the value of that staff member to KEANE and the inconvenience which would be caused. The parties agree that this sum is a genuine pre-estimate of the loss likely to be suffered by KEANE in these circumstances.

## **15. Dispute Resolution**

- 15.1 The parties shall attempt to resolve any dispute arising out of or relating to these Terms through negotiations.
- 15.2 If the matter is not resolved at this meeting, the matter will be referred to the next level of the parties' management with authority to settle the same, who will meet within 14 days to attempt to resolve the matter. If the unresolved matter is having a serious effect on the Service, Support or other elements of the completion of a Service Request, the parties will use best endeavours to reduce the elapsed time in completing the process.
- 15.3 If the matter is not resolved through negotiation, (and further negotiation is not possible under 14.2 due to lack of management roles) the parties will attempt to resolve the dispute in good faith through mediation using a mediator recommended by CEDR- the Centre for Dispute Resolution.
- 15.4 If the matter has not been resolved by an ADR procedure within 30 days of the initiation of that procedure, or if either party will not participate in an ADR procedure, the dispute shall be decided by the High Court of England and Wales and the parties submit to its exclusive jurisdiction for that purpose.
- 15.5 These Terms shall be governed by the laws of England and Wales

## **16. General Provisions**

- 16.1 These Terms and each Service Request supersedes any prior agreements, arrangements and undertakings between the parties in relation to its subject matter and constitutes the entire agreement between the parties relating to that subject matter.
- 16.2 The Customer agrees that it will have no remedy in respect of any untrue statement made to it upon which it relied in entering into these Terms or a Service Request and that its only remedies can be for breach contract (unless the statement was made fraudulently).
- 16.3 Neither party shall be liable for any delay or failure to perform its duties caused by any circumstances beyond its reasonable control.
- 16.4 The Customer agrees that KEANE may acknowledge this agreement and Service Requests in publicity material and tenders. The Customer hereby grants to KEANE a non exclusive and



perpetual licence to place a link to the Customer Website developed by KEANE from KEANE's own promotional Website.

16.5 If any part of these Terms is held unlawful or unenforceable that part shall be struck out and the remainder of this framework agreement shall remain in effect.

16.6 No delay, neglect or forbearance by either party in enforcing its rights under this framework agreement shall be a waiver of or prejudice those rights.

16.7 The Customer may not assign or otherwise transfer these Terms or any of its rights and duties hereunder whether in whole or in part.

16.8 KEANE may sub-contract the performance of any of its duties under these Terms and may assign or otherwise transfer these Terms.

16.9 All notices shall be in writing and shall be sent to the address of the recipient set out at the top of these Terms or to such other address as the recipient may have notified from time to time. Any notice may be delivered personally or by first-class post or by fax and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by fax when confirmation of transmission is received.

16.10 The parties agree that any person who is not a party to these Terms shall have no right to enforce any term against either of the parties under the Contracts (Rights of Third Parties) Act 1999.

16.11 It may be necessary for KEANE to make amendments to these Terms from time to time to reflect changes in law or other business practices. Where the same has occurred KEANE shall provide the Customer with either a copy of the amended Terms or details of the amendment made by post or by directing the Customer to the version on the website [www.keanecreative.co.uk](http://www.keanecreative.co.uk). The Customer shall make any comments regarding changes within 14 days of the notification and in default of the same the revision shall apply as if it had been part of these Terms.

## **Schedule 1**

### **Marketing, public relations, consultancy (other) and training**

1. Where a Service Request relates to marketing, public relations, consultancy, or training, KEANE shall provide such Service in accordance with these terms.
2. Where the Customer provides Keane Creative with a marketing database the Customer acknowledges that the provisions of clause 9 shall apply at all times and the that the following provision accurately describes the extent of the processing undertaken by Keane Creative;

### **Processing, Personal Data and Data Subjects**

#### **Processing by the Provider**

1. Scope:



- a) To use the database supplied by the Customer to send out direct marketing by email or as otherwise agreed from time to time;
  - b) To add in new contacts as advised by the Customer subject to acknowledgement by the Customer that such contact must be a Corporate Subscriber and sent a privacy notice at the time of the first communication or before;
  - c) To provide analytics on the success of the marketing campaign.
2. Nature/ Grounds: Legitimate interests of the data subject (being always a Corporate Subscriber)
  3. Purpose of processing: for direct marketing purposes
  4. Duration of the processing: the term of the Service Request relating to marketing services.
  5. Types of personal data: name, address, email.
  6. Categories of data subject: customers and potential customers.

## **Schedule 2**

### **Design (Website and Printed Materials)**

1. Where a Service Request relates to the design of Websites and Printed Materials KEANE shall;
  - 1.1. prepare a Specification (for Website design and Printed Material);
  - 1.2. prepare Proofs (for Printed Material); and
  - 1.3. Provide the necessary KEANE Material.
2. The Customer shall provide all necessary Customer Material.
3. The Customer shall review the Specification promptly and sign it off promptly.
4. Where the Service relates to Printed Materials KEANE shall use the Specification to prepare a Proof. The Customer shall review the Proof promptly, notify KEANE of any changes to be made, or otherwise sign it off. KEANE reserves the right to charge Extra Fees where, in the opinion of KEANE, Customer changes represent a shift from the Specification already signed off.
5. Where the Service relates to Website build the Specification will be used as the baseline for the build and this is referred to in Schedule 3.
6. When the Specification and/or Proofs have been signed off KEANE shall not be liable to the Customer for any related errors which then appear in the Website or Printed Materials.
7. Risk in the Specification and Proofs shall pass to the Customer on delivery, but Intellectual Property Rights shall pass to the Customer only upon payment in full.

## **Schedule 3**

### **Website build**

1. Where the Service Request relates to Website build KEANE shall, as agreed and appropriate;
  - a) carry out such work as is necessary to build the Website in accordance with the Specification;
  - b) make the website available to the Customer for inspection.
2. Where the Customer wishes to make changes to the Specification and/or Proofs after sign off, the Customer shall complete a Change Control Form and the parties shall follow Change Control.
3. KEANE shall notify the Customer when the Website is in the "client" area. The Customer shall inspect the Website and sign it off. This will usually be by return of a fax form.



4. If the Customer is unable to sign off the Website the Customer shall make all necessary changes known to KEANE within 1 week of being notified that the Website is ready for approval as in clause 3 above and KEANE shall use its reasonable endeavours to make any necessary amendment to the Website promptly provided that the change does not affect the Specification. KEANE shall repeat clause 3 above.
5. If the Customer does not make any changes known to KEANE within 1 week, KEANE shall deem that the Website has been accepted and is ready for the live environment.
6. KEANE warrants that the Website shall perform substantially in accordance with the Specification, minor interruptions and errors excluded for a period of 30 days from acceptance or deemed acceptance. If the Website does not so perform, then KEANE shall for no additional charge promptly ensure that the Website complies with the Specification. This warrantee is in addition to the Website support;
7. KEANE shall not be liable under clause 6 if a failure to meet the warranties is caused by applications other than the Website running on any equipment other than that specified in the Specification or modifications or customisations made by the or on behalf of the Customer to the Website, without the authorisation of KEANE.
8. To the fullest extent permitted by applicable law, KEANE does not;
  - a) Warrant that the Website is error free or that its use will be uninterrupted and the Customer acknowledges and agrees that the existence of such errors shall not constitute a breach of this agreement; or
  - b) Give any warranty in respect of Pre-Existing Materials. KEANE will pass on the benefit of any third-party warranty supplied by a third party manufacturer or supplier.
9. Where KEANE agrees to carry out Website build services using a specification provided by the Customer (i.e. otherwise than as set out in Schedule 2) the Customer shall provide all necessary Customer Material promptly. The Customer shall provide the specification promptly and KEANE shall have the right to reject the specification if it cannot be properly used or it would hamper the project.

#### **Schedule 4**

##### **Website Services Hosting**

1. Where the Service Request relates to Website hosting KEANE shall;
  - a) provide such Services directly to the Customer on terms to be agreed and captured in a Service Request; or
  - b) source suitable Services from a third party (ISP) to meet the Customer's hosting requirements; and
  - c) provide the Customer with details of the ISP's terms and conditions.
2. The Customer acknowledges that KEANE is not providing the hosting service personally. To that end, KEANE shall not be responsible to the Customer for any costs, claims, demands, expenses and liabilities arising out of the services provided by the ISP.
3. The Customer acknowledges that the terms and conditions between KEANE and the ISP include restrictions that apply to and bind the Customer and that it is the Customer's responsibility to make itself aware of these restrictions upon review of the ISP terms and conditions.





### **Search Engine Management/Marketing Support and Maintenance (SEMM)**

1. Where the Service Request relates to SEMM, KEANE shall provide:
  - a) Telephone and email support during 9am to 5pm Mondays to Friday excluding bank holidays to log requests for support with the ISP;
  - b) Monthly maintenance (see 2 below)
2. Monthly maintenance will include; - checking links on web pages; - repairing broken links; - directory registration (using FOC search engine only) - changing images - text changes e.g. heading and adding text (bulletins) to equate to an agreed allocation of time per month where such time can be used accumulatively to make greater structural changes to the Website.
3. Where monthly maintenance will exceed the agreed allocation of time KEANE shall inform the Customer of Fees and Services required using a Service Request and the process set out in the Terms (Clause 2).
4. The Customer may terminate monthly maintenance services by giving KEANE not less than 3 months' notice to expire simultaneously with the next quarter invoice due.

### **Schedule 5**

#### **Supply of Printed Material**

1. Where a Service Request relates to the supply of Printed Material KEANE shall;
  - a) source suitable printers and or agents;
  - b) suggest suitable materials for the printing;
  - c) instruct the printers and or agents in accordance with the agreed Proofs;
2. The Customer shall inspect the Printed Materials on delivery and sign off will take place. Where the Customer does not confirm delivery at the point of delivery, acceptance and delivery will be deemed to have occurred 4 days after actual delivery. All risk in the Printed Material shall pass on actual delivery.
3. Where the Customer does not use materials recommended by KEANE, KEANE shall not be liable to the Customer for any claims or damages by the Customer in respect of the quality or fitness for purpose or otherwise of the Printed Materials.