



AVIDLY GENERAL TERMS AND CONDITIONS

These General Terms and Conditions (hereinafter the “**Terms**”) governs the provision of the marketing and advertising related professional services and software products provided by Avidly Oy and its Affiliates (hereinafter together “**Avidly**”) to the customer indicated in the Agreement and / or Offer (hereinafter the “**Customer**”).

1. Definitions

As used in these Terms, unless expressly otherwise stated or evident in the context, the following capitalized terms shall have the following meaning:

1.3 “**Affiliate**” means an entity which is a subsidiary or parent of, or under common control with, the Party. For these purposes, an entity shall be treated as being controlled by another if that other entity has fifty (50) per cent or more of the voting shares in such entity, or that other entity is able to direct the Party’s affairs or is able to appoint a majority of the members of the board of directors or an equivalent body.

1.4 “**Agreement**” means these Terms together with Offers or separate service agreement documents referring hereto (including any appendices) which shall govern the provision of the Service/Avidly Software by Avidly and the use of the Service/Avidly Software by the Customer. To the extent any conflict arises between the text of these Terms and the text of the Offer(s) and any appendixes, the Offer shall prevail before these Terms. Thereafter appendixes shall be applied in numerical order, with the smallest number to prevail.

1.5 “**Customer Content**” means any advertising or campaign content and/or materials and other information provided by Customer to Avidly for the purpose of the Service, including without limitation any third party content licensed or acquired: (i) by the Customer, or (ii) by Avidly on behalf of and with the authorization of the Customer.

1.6. “**Deliverable**” means the outcome and result of the Services defined in the Offer to be delivered to the Customer.

1.7 “**Intellectual Property Rights**” means patents, utility models, rights to inventions, copyright and neighboring and related rights, moral rights, trademarks 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.



1.8 **“Offer”** means a written document (email being sufficient) submitted by Avidly to the Customer which describes the Service/Avidly Software that Customer agrees to purchase from Avidly and which, by reference, incorporates these Terms.

1.9 **“Party”** means Avidly or Customer separately. Customer and Avidly together are referred to as the “Parties”.

1.10 **“Personal Data”** means any information relating to an identified or identifiable natural person.

1.11 **“Project Work”** means work that is defined by a specific scope, timeline, and budget, and is charged accordingly.

1.12 **“Retainer Work”** means work that is agreed upon in advance and is charged at a set fee on a monthly or quarterly basis.

1.13 **“Service”** means the provision of the services by Avidly to the Customer’s defined in Offer.

1.14 **“Code”** means Avidly’s software development work on a code, which can be based on open source. This work can include for example any changes, updates, upgrades, modifications and enhancements made thereto, and any related Avidly’s proprietary modules, add-ons, tools, browser plugins, scripts and applications as well as any documentation relating thereto all of the foregoing to the extent offered by Avidly.

1.15 **“Terms”** means these General Terms and Conditions applicable to the use of the Service. Avidly may update and modify the Terms from time to time and by continuing to use the Service after having been informed of the modification by written notice of Avidly (email being sufficient), the Customer accepts the modification and the revised Terms shall enter into force after thirty (30) days have elapsed from the written notice of revised Terms.

1.16 **“Work by the Hour”** means work that is charged on the basis of the actual time spent by the service provider on the work.

2. Provision of Services and Deliverables

The Service, Deliverables and Code (if any) and its scope is defined in each Offer.

Unless otherwise agreed in writing between the Parties, Avidly is entitled to produce the Service as it deems appropriate. The Customer understands and agrees that, unless listed in the Offer, Avidly is not responsible for any other work or scope of supply or any disclosure, notifications or reports that may be required to be made to third parties, including appropriate governmental authorities.

If the Customer requests and Avidly agrees to perform any services that are in addition to or outside the scope identified in the Offer, the Customer shall promptly pay Avidly for such services in accordance with these terms and rates referenced in the Offer or the supporting written correspondence between the Parties.

3. Quality of Service and Level of Care

The Service shall be carried out by Avidly in a manner consistent with that level of care and skill ordinarily exercised by others currently providing similar services under similar circumstances at the time the Services are performed. No other warranty, express or implied, whether contained in materials provided or statements made by Avidly with respect to the quality, result, effectiveness or outcome of the work including any implied warranties of merchantability and fitness for a particular purpose and any warranty as to non-infringement, and any such additional warranties are hereby expressly disclaimed.



For the avoidance of any doubt, Avidly has no control over the policies of search engines and / or online platforms with respect to the type of sites and/or content that they accept now or in the future. The Customer acknowledges that its website may be excluded from any search engine or online platform at any time at the sole discretion of the search engine.

Furthermore, due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, Avidly cannot guarantee #1 positions or consistent top 10 positions for any particular keyword, phrase, or search term. In addition, linking to “bad neighbourhoods” or getting links from “link farms” can seriously damage all search engine optimization efforts. Therefore, Avidly does not assume and disclaims any kind of liability for the Customers choice to link to or obtain a link from any particular website.

Unless otherwise agreed between the Parties, Avidly runs a two business days sign off period for delivery of Deliverables. If the Customer has not provided feedback within two business days:

- a) For Retainer Work, Avidly will request for feedback within a 48 hour window, from the time it is first shared. The task will be closed and, should any amends be requested thereafter, they will need to be booked by the team on the next available slot. Delays post 48 hours will likely impact on the goals and these may be periodically updated to reflect this. Clients also have the option to provide automatic sign-off, without review, which can be confirmed with your point of contact at any time.
- b) for Projects Work, Avidly will issue a Project Remediation Notice to confirm the revised time frames so all parties involved have full visibility.
- c) for Work by the Hour, all relevant details, including but not limited to applicable hourly prices and agreed materials and other expenses will be agreed and specified in the Offer or otherwise in writing between the Parties.

4. Customer's Obligations

The Customer shall:

- (i) provide for right of entry and access to all relevant sites, equipment and other information in its control or possession as is necessary for Avidly to timely and fully complete the Deliverables.
- (ii) ensure that any terms, material and correspondence it provides to Avidly as part of the Offer or in connection with the Agreement are complete and accurate;
- (iii) co-operate with Avidly in all matters relating to the Deliverable and Avidly's provision of the Service to the Customer;
- (iv) provide Avidly, its employees, agents, consultants and subcontractors, with access to the Customer's facilities as reasonably required by Avidly;
- (v) provide Avidly with such information and materials as Avidly may reasonably require in order to carry out the Work and any Additional Work, and ensure that such information is complete and accurate in all material respects;
- (vi) obtain and maintain all necessary licences, permissions and consents which may be required for the Work and any Additional Work before the date on which the Services are to start;
- (vii) comply with all applicable laws, rules and regulations applicable to Customer, including all laws, rules and regulations related to advertising and conducting advertising campaigns; and



(viii) comply with any additional obligations as set out in the Proposal.

Avidly is not responsible for the quality or accuracy of data or information, nor for the methods from which the data was developed, where such information or data is provided by or through the Customer or others that are not agents of Avidly, and Avidly has no obligation to investigate facts or conditions not disclosed to it by Customer. Avidly is not responsible for changes made to the website by other parties that adversely affect the Deliverables/performance of the Customer's website.

For the sake of clarity, the Service does not include, and Avidly does not offer, any telecommunication or networking services or equipment, security services or systems, or hardware or other equipment. If Customer requires any of the foregoing, Customer must obtain such systems, services and equipment at its own expense from third party vendors.

If Avidly's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any of its relevant obligations ("**Customer Default**") without limiting or affecting any other right or remedy available to it, Avidly shall have the right to suspend the carrying out of the Work and any Additional Work 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 Avidly's performance of any of its obligations. Furthermore, Avidly shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Avidly's failure or delay to perform any of its obligations and the Customer shall reimburse Avidly on written demand for any costs or losses sustained or incurred by Avidly arising directly or indirectly from the Customer Default.

5. Intellectual Property Rights

Customer (or Customer's third party licensor) retains all of its rights and Intellectual Property Rights, including modifications and enhancements, in and to all Customer Content which the Customer provides to Avidly for the performance of the Service (including without limitation material and content which the Customer has purchased or licensed from a third party). Customer hereby grants Avidly a non-exclusive, worldwide, and limited right to use such Customer Content for purposes of delivering and performing the Service under this Agreement. In case there are some third party restrictions relating to the Customer Content, the Customer shall notify Avidly of the same when providing Avidly with the Customer Content and the Parties shall discuss and agree in good faith on how such restrictions are taken into account in the provision of the Service. The Customer guarantees any elements of text, graphics, photos, designs, trademarks, or other artwork provided to Avidly for the Purposes of Service are owned by the Customer, or that the Customer has received permission from the rightful owner(s) to use each of the elements, and will indemnify, defend and hold Avidly and its subcontractors harmless from and against any liability from the use of such elements.

The ownership and limited usage rights for the Deliverables created during the project are transferred to the Customer upon full payment of the project invoices by Customer. The limited usage rights means that the Customer may use the Deliverables for internal use and for the agreed purpose. For clarity, after the delivery Customer is responsible for all costs, expenses and license fees incurred by third party software product and other materials acquired from third parties.

Notwithstanding the foregoing, if the Customer provides feedback, requests features, changes or tools, or otherwise provides comments relating to the Service or provides suggestions or ideas for improving the Service



(all the aforementioned referred to as “**Feedback**”), notwithstanding anything stated to the contrary in these Terms, the Customer agrees that such Feedback will be fully assigned to Avidly without any obligation for Avidly to pay separate compensation, and Avidly shall have the title of, and own all rights to, such Feedback and may thus use and incorporate them into its service offerings.

For clarity, in case the Deliverables or Customer Content includes access to third party program products that have been explicitly listed as third party program products to be supplied by Avidly in accordance with the project-specific terms, the applicable third party license terms shall apply to those products and Avidly shall not have any liability on those products whatsoever. Furthermore, Customer acknowledges and agrees that Avidly may freely utilize (including for commercial purposes) any integration or other software development work made for the Customer with respect to such third party program products.

All rights and title to the Code shall remain vested explicitly with Avidly or third party (as the case may be). If the Deliverables includes any material owned by Avidly or material which includes Avidly's Intellectual Property Rights (“**Avidly Material**”), Avidly grants the Customer a limited, non-exclusive, worldwide right to use the Code and/or Avidly Material as part of the Deliverables for Customer’s internal use and the agreed purpose. For clarity, the Customer may not modify the Code nor the Avidly Material nor resell without prior written consent of Avidly.

5. Invoicing and Payment Terms

Unless otherwise agreed between the Parties, Customer shall pay Avidly for the work based upon the price or hourly rates shown in the Offer or in written confirmation via email.

Work by the Hour model: Unless otherwise agreed between the Parties, any Service that is agreed to be provided by Work by the Hour model shall always be invoiced at the end of the month based on the actual hours delivered.

For Website builds: unless otherwise agreed between the Parties, any website build shall always be invoiced in the following way:

- A deposit amounting to fifty percent (50%) of the total fee shall be payable prior to the initiation of the Gate 1 Discovery call.
- An additional twenty-five percent (25%) of the total fee shall be due upon the sign-off of Gate 2 or upon the expiry of ninety (90) days from the date of the agreement, whichever occurs first.
- The remaining twenty-five percent (25%) of the total fee shall be payable upon the provision of the staging link, prior to the project going live.

Estimate and Scope of Work (SOW):

- The quoted price is an estimated figure derived from the initial scoping based on the brief and/or sitemap provided by the client.
- Should there be any alterations in the scope or the number of pages during the tenure of the project, it may lead to an adjustment in the previously quoted price.



- A comprehensive Scope of Work (SOW) for the project will be made available to the client should they express a desire to proceed with the engagement.

For Project Work working model: Unless otherwise agreed between the Parties, the agreed Service and Deliverables and Code (if any) shall be invoiced in two installments: the first installment (50%) upon the commencement of the work and the second installment (50%) upon the delivery. If the progress of the work deviates from the approved schedule for reasons arising out of the Customer, any work arrangements arising out of it shall be invoiced at raised prices (multiplier 1.5). If the Customer cancels the project, work done thus far shall be invoiced based on actual completed working hours. If all the work or some stage of it is done outside regular working hours (8 AM – 5 PM) at the Customer's demand, it shall be invoiced at a raised price (multiplier 1.5). All deposits paid by the Customer are non-refundable and cannot be allocated to alternative deliverable's outside of the original project brief.

For Retainer Work working model: All retainer work shall be paid via direct bank transfer (including but not limited to BACS in UK). Avidly shall provide all instructions to set this up on the date of signing. For months 1 & 2 plus any Project Work based Service the payments are also to be made via direct bank transfer. The prices for retainers will be reviewed annually and may be increased based on the Consumer Price Index (CPI) or any other applicable inflation index. The increase will be communicated to the Customer in writing, with a minimum of 30 days' notice.

All invoices are to be raised on the 1st of each calendar month for the following month's services and will need to be paid by the Customer within 30 days.

Unless otherwise agreed in writing between the Parties, any cost estimates provided by Avidly are considered binding within the described scope and including the described working stages with ten (10) percent accuracy. The cost estimate shall be valid for 2 months from its date.

Working stage-specific prices include sketches and one commenting round based on the Customer's Feedback. Any additional work shall be billed based on actual completed working hours. Changes made to a delivery or part of a delivery after the Customer has already approved it shall be billed based on the work done.

The currently valid VAT shall be added to the prices. The term of payment shall be 14 days net. Penalty interest rate shall be based on the Interest Act.

Sub-contracting work for the Customer and approved by the Customer shall be invoiced from the Customer directly by said sub-contractor. By separate agreement, acquisitions may be invoiced through Avidly for a separate service fee (4% of the amount invoiced through Avidly).

Other expenses including but not limited to courier expenses and any travel expenses implemented for the Customer during the project shall be added to the total sum of the invoice as accrued. In addition to actual travel expenses, the time used for travel shall also count as travel expenses, unless otherwise agreed in writing between the Parties.

Unless otherwise stated in writing between the Parties, costs for sub-contracting, such as printing, reproduction, photography, photo licensing fees, file conversions, software and font licenses, SSL certificates, technical surveys etc. are not included in the cost estimate provided by Avidly.



6. Limitation of Liability

Neither Party shall be liable for any special, indirect, incidental, punitive or consequential damages of any kind whatsoever (including but not limited to attorney's fees relating to such excluded damages).

Each Party's total aggregate liability arising out of or in connection with this Agreement may not in any calendar year exceed an amount equal to the aggregate amount of fees received by Avidly from the Customer under the applicable Offer during six (6) months preceding the event giving rise to such liability.

7. Confidentiality Obligation

Each Party ("**Receiving Party**") shall keep in confidence all material and information received from the other Party ("**Disclosing Party**") that is marked as confidential or which should be understood to be confidential ("**Confidential Information**"), and may not use Confidential Information of the Disclosing Party for any purpose other than for the proper fulfilment of the Agreement. The confidentiality and non-use obligations shall not, however, be applied to material and information: (a) which is generally available or otherwise public; or (b) which the Receiving Party has received from a third party without any obligation of confidentiality; or (c) which was in the possession of the Receiving Party prior to receipt of the same from the Disclosing Party without any obligation of confidentiality related thereto or breach of confidentiality obligations. Receiving Party may also disclose the Disclosing Party's Confidential Information to the extent required by applicable law, regulation, court order or lawful request of a governmental body.

Notwithstanding the confidentiality provisions, Avidly may collect, use and analyse data derived from the Customer's use of the Services and / or Avidly Software but may only disclose this kind of data if the data is de-identified or if it is not attributable to any individual or company. In addition, Avidly may collect, create, analyze, and use aggregated data, de-identified data and other information (such as product or feature usage, device metrics/metadata etc.) to facilitate market research and analysis, quality control, product and service development/improvement and to provide support and maintenance services. Avidly may use, store, or disclose such information or material derived from such information, as long as it is in a de-identified form or is not attributable to any individual or company.

Receiving Party shall promptly upon termination of the Agreement cease using the Disclosing Party's Confidential Information and has no longer an obligation to store Disclosing Party's Confidential Information. Disclosing Party has the right at any time to request the Receiving Party to have the Disclosing Party's Confidential Information deleted and the Receiving Party is obliged to comply with such request without undue delay. Each Party shall, however, be entitled to retain the copies required by law or regulations and Avidly may continue the use of information as permitted under this Section 7.

The Agreement will remain in force with respect to any Confidential Information disclosed during the term of this Agreement for five (5) years from the disclosure of each respective Confidential Information except that the foregoing time limit shall not apply to trade secrets for which the time limit shall continue as long as the information qualifies as trade secret under the governing law of this Agreement.

8. Non-Solicitation

The Customer shall not to solicit, either directly or indirectly a person who is or has been involved in the Service of the Avidly and performs or has performed essential tasks to the Service or enter into any other agreement or otherwise agree such an arrangement whose purpose is to obtain the work contribution of the



person in question until six (6) months have passed from the termination of expiration of the Agreement or the employment in question, whichever first occurs.

9. Processing of Personal Data

The Customer expressly acknowledges and agrees that it is Customer's obligation to observe and to comply with any and all privacy and data protection laws (including but not limited to the EU General Data Protection Regulation “**GDPR**”), regulations and terms applicable to Personal Data contained in the materials provided by the Customer for the purposes of the Service and / or Avidly Software regardless of the country/state in which the Customer is based.

In the event that (i) Avidly in connection with the Service processes Personal Data as a processor on behalf of the Customer and (ii) the applicable legislation (such as the GDPR) requires Parties to put in place a data processing agreement to govern such data processing, data processing agreement appended to these Terms will apply to the said processing. In such event, the data processing agreement forms an integral part of the Agreement and shall be applied to the processing of Personal Data by Avidly as a processor.

10. Applicable Law and Dispute Resolution

The Agreement will be governed by the laws of Finland excluding its provisions relating to the choice of law.

Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof, shall be finally settled by arbitration in accordance with the Arbitration Rules of the Finland Chamber of Commerce. The proceedings shall take place in the English language in Helsinki, Finland.

Existence of arbitral proceedings, the proceedings, any material presented or drafted in relation to the proceedings and the verdict shall be considered as Confidential Information under this Agreement.

11. General Provisions

Avidly is entitled to change the working methods, hardware, data communication links, software, user interface or other system components used in the Code. Avidly may also use subcontractors for the provision of the Service and / or the Code.

Neither Party may assign this Agreement without the other Party's prior written consent. Parties shall, however, be entitled to assign this Agreement in whole or in part to its Affiliates and in connection with a merger or acquisition process including but not limited to the transfer of business and/or any other corporate transaction or restructuring. Avidly has also the right to assign this Agreement in whole or in part to its Affiliates for the provision of the Service and / or the Code.

No provision or right under this Agreement shall be considered waived without an explicit written statement or agreement signed by the waiving Party in each specific case. A waiver of any term, provision or right under this Agreement shall not be construed as a waiver of any other term, provision or right hereunder.

Neither Party shall be liable to the other for any failure to perform any of its obligations (except payment obligations) under this Agreement during any period in which such performance is delayed by circumstances beyond its reasonable control, such as fire, flood, storm, war, embargo, strike, riot, terrorism, breakdown of plant or machinery, malicious damage, order by government or authority or the intervention of any governmental authority or any other events or circumstances beyond the reasonable control of the party affected, whether similar or dissimilar to any of the foregoing (a “**Force Majeure**”). In such event, however, the



delayed Party must promptly provide the other Party with written notice (email being sufficient) of the Force Majeure. The delayed Party's time for performance will be excused for the duration of the Force Majeure.

The Agreement constitutes the entire agreement with respect to its subject matter and replaces and supersedes any prior written and/or verbal communications. Any Customer terms and conditions, policies and other documents provided by the Customer to Avidly shall not become part of this Agreement or be binding upon Avidly without a written agreement signed by an authorized representative of Avidly explicitly incorporating those terms into the Offer. Nothing in this Agreement shall be deemed or implied to create a partnership, agency, partnership or joint venture of any kind between the Parties.

If any provision herein is held to be invalid or unenforceable to any extent, then such provision will be interpreted, construed and reformed to the extent reasonably required to render it valid, enforceable and consistent with its original intent.

Avidly shall have a right to list the Customer as a reference customer under the company name in an alphabetic list and to use the Customer as a reference customer in the sales materials for its outsourcing service.