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Terms & Conditions of Business

1. BACKGROUND

- 1.1 The Age Check Certification Scheme is a trading name of Under Age Sales Ltd a company registered in England and Wales, with company number 07357348 whose registered office is at Unit 316, Broadstone Mill, Broadstone Road, Stockport, SK5 7DL (the “ACCS”)
- 1.2 ACCS has developed third party certification schemes for age check service providers and relying parties and offers third party certification services to businesses who wish to obtain a “Certificate of Conformity” against the relevant standards (the “Clients”).
- 1.3 This document outlines the terms and conditions that shall apply when a Client applies for certification and shall form the terms and conditions of the contract between the parties (the “Contract”).

2. GENERAL

- 2.1 The law of England and Wales governs this Contract.
- 2.2 The Client agrees that in any dispute or disagreement arising from the performance of the Contract (specific or otherwise) which proves unresolvable by discussion and negotiation, the matter may be referred to an initial process of mediation, prior to any formal commencement of litigation.
- 2.3 If any term or condition of this Contract is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise enforceable by law, it shall be severed and deemed to be deleted from this Contract and the validity and enforceability of the remainder of this Contract shall not be affected or impaired thereby.

3. COMMENCEMENT DATE AND TERM

- 3.1 The Contract shall commence on the date that the Client completes an application for certification and shall continue until termination of the Contract by either party in accordance with section 4 of this Contract.
- 3.2 This Contract supersedes any previous contract between the parties concerned and no terms and conditions of the Client shall apply.

4. TERMINATION

- 4.1 Either party may terminate this Contract at any time during the course of the Contract, upon the giving of three calendar months’ notice in writing to the other party. In the event of

The **Age Check Certification Scheme** is a division of social enterprise Under Age Sales Ltd

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termination of this Contract by the Client, no refund will be due that relates to any application or initial assessment fees or any activities that have either been partially or fully completed and ACCS shall only be required to refund a pro-rata amount of any remaining fees in order to account for the period of certification prior to the termination date.

- 4.2 This Contract shall immediately be terminated by default if either party dissolves their company or is the subject of a Winding-Up Order from the Secretary of State. In the event of either party entering into a Voluntary Administration or Receivership, the other party to the contract may terminate the Contract without notice.
- 4.3 ACCS may withdraw certification and terminate this Contract without notice if:
- (a) the Client fails to pay any amount under the Contract within 30 days of the invoice due date.
 - (b) the Client breaches any material obligation of the Contract and fails to remedy the breach within 30 days from the date of notification of such breach by ACCS,
 - (c) the Client is in ACCS's opinion misusing their certification, or acts in a manner that in ACCS's opinion may bring the Certification Scheme into disrepute.
- 4.4 In the event of termination of this Contract for any reason, all amounts payable by the Client under this Contract will become due immediately and the Client shall immediately return all Scheme certificates to ACCS, destroy any literature or other items which carry the ACCS mark or references to ACCS, remove all ACCS Marks from its websites and other electronic media and cease to use any material which includes any ACCS marks or references to ACCS. The Client shall confirm to ACCS that these obligations have been met within 14 days of termination of the Contract. Sections 2, 13, 14, 16, 17 and 18 shall survive termination of this Contract.

5. CLIENT COMMITMENTS

- 5.1 The Client agrees to fully comply with the certification requirements including any amendments to the certification when they are communicated by ACCS. The Client agrees that ACCS has the right to modify the certification requirements during the term of this Contract.
- 5.2 The provision of information by the Client to ACCS is material for the operation of the Scheme. For the duration of the Contract, the Client shall supply to ACCS without charge and within a reasonable timeframe such information as is necessary and relevant and shall give such assistance as shall reasonably be required by ACCS in order for ACCS to provide services under this Contract. This shall include, but is not limited to the provision of:
- (a) All information relevant to the age check procedures and processes adopted by the client;
 - (b) The total number of age checks undertaken by the client at regular intervals;
 - (c) The outlets and domains operated by the client where age checks take place;
 - (d) The age check service providers and vectors of trust utilised by the client;
 - (e) The details of any changes made to the age check procedures and processes during the term of certification;
 - (f) The details of any regulatory breaches of age checks as notified to the client by any enforcing authority; and
 - (g) Any other information that ACCS can reasonable request as relevant to the certification decision.

- 5.3 The Client warrants and represents that all information provided to ACCS for the purpose of the Contract shall be accurate and complete. ACCS accepts no liability for any losses, costs or damages suffered or incurred by the Client arising out of or in relation to services provided on the basis of misleading, inaccurate, or incomplete information provided by the Client.
- 5.4 The Client shall make all necessary arrangements to allow ACCS to operate the Scheme, including, but not limited to:
- (a) allowing ACCS staff and observers as appropriate full access to its office facilities, personnel and or sub-contractors for the purpose of carrying out audit visits, certification surveillance or compliance sweeps;
 - (b) obtaining permission for ACCS and its employees to access any premises that ACCS needs to enter in order to provide certification services to the Client;
 - (c) providing full technical details of any age check processes to be covered by the Certification;
 - (d) providing permission for third parties to allow ACCS access to documentation relating to the Client that may be relevant to certification;
 - (e) providing details of all complaints or regulatory actions relating to any age check process or procedures to be covered by the Certification so that they can be investigated by ACCS.
- 5.5 The Client agrees to accommodate random certification surveillance, unannounced visits or visits at short notice in order for ACCS to confirm compliance with the Scheme requirements.
- 5.6 Unless agreed with ACCS in advance, the Client is responsible for providing any safety equipment required by ACCS employees in order for them to carry out audit visits.
- 5.7 The Client agrees that ACCS may make additional visits where ACCS believes that there a risk of non-compliance with the terms of certification. Such additional visits will be charged at ACCS's then current rates.
- 5.8 The Client shall inform ACCS, without delay, of changes that may affect its ability to conform with the certification requirements.

6. CLAIMS REGARDING CERTIFICATION

- 6.1 The Client shall only make claims regarding certification that are consistent with the scope of certification and shall not make any statement regarding certification of its age check service that ACCS may consider misleading or unauthorised. The Client shall not in any way use its certification in such a manner that may bring ACCS into disrepute.
- 6.2 The Client shall only provide copies of ACCS documents to other parties in accordance with the Scheme requirements and the certification documents shall be reproduced in their entirety or as otherwise specified in the Scheme Rules.
- 6.3 The Client shall comply with the requirements of the Scheme when making reference to its certification in communication media such as documents, brochures or advertising.
- 6.4 The Client shall comply with all requirements relating to the use of ACCS marks, other marks of conformity, and on information related to the age checking service.

7. CERTI-FI COMMITMENTS

- 7.1 ACCS will conduct audits, surveillance and assessments at the frequency it deems necessary to provide ACCS with confidence that the Scheme requirements have been met and continue to be met. The surveillance frequency will be agreed in advance, subject to ACCS

reserving the right to undertake accelerated surveillance in the event of persistent non-conformances being identified.

- 7.2 In performing services under this Contract, ACCS shall exercise reasonable skill, care and diligence expected of a qualified and competent contractor experienced in the provision of such services.
- 7.3 ACCS will conduct reviews of initial evidence, audit visits, compliance sweep tests and other activities to determine whether the Client is likely to have met the requirements for certification. Such activities will be conducted on a sampling basis, and ACCS does not warrant that any age check service that it has reviewed conforms to the Scheme or any other standard, either at the time of the review, or on an ongoing basis. ACCS does not accept any responsibility for any loss or claim by the Client if they subsequently find that a age check service that has been reviewed by ACCS does not conform to the Scheme or any other standard. ACCS does not accept any responsibility for any loss of claim by the Client if they face legal or disciplinary action by any regulator for their failure to undertake age check services either individually or collectively.

8. CERTIFICATES OF CONFORMITY

- 8.1 In applying for certification, the Client does not have an automatic right to a certificate of conformity and the Client shall only be awarded certification once they have:
- (a) demonstrated to the satisfaction of ACCS that they have fully met the requirements of the Scheme;
 - (b) provided any initial documented processes and procedures, audit testing reports, compliance sweeps and any other documentation that is required in order to demonstrate that the scheme requirements have been met;
 - (c) provided any additional documentation that ACCS deems necessary in order to demonstrate compliance with the Scheme;
 - (d) settled all outstanding invoices in full.
- 8.2 The ACCS certificate shall only cover age check services that are provided strictly within the scope of certification provided by ACCS.

9. PUBLISHING OF CLIENT DETAILS

- 9.1 ACCS may make details of the Clients certification status publicly available, through websites, press releases, social media and other forms of communication. Such details shall include the Clients name, address, scope of certification and the status of the certificate (including when the certificate has been suspended or terminated).
- 9.2 ACCS may be required by regulators to inform them when certain certification decisions have been made, including any decision to suspend or terminate certification.

10. SUSPENSION OR WITHDRAWAL OF CERTIFICATION

- 10.1 In the event of non-conformance to the requirements of the Scheme, ACCS will normally provide notice of the non-conformance, together with the actions required by the Client to resolve the issue, provided however that when at ACCS's discretion it is felt that the non-conformance is likely to damage the reputation of ACCS or put ACCS's accreditation status at risk or put ACCS's recognition by regulators at risk, ACCS may at its option, immediately

- suspend or withdraw certification and publicise the reason for the suspension or withdrawal on its website.
- 10.2 In the event of suspension of certification, the client must immediately cease to use any literature or other items which carry the ACCS mark, remove all ACCS Marks from its websites and other electronic media and cease to use any material which includes any ACCS marks or references to ACCS until the certification has been re-instated.
- 10.3 In the event that ACCS decides to withdraw a Scheme from the market, it shall give at least 30 days written notice of the withdrawal. Upon withdrawal of a Scheme by ACCS, the Client must cease to use any literature or electronic media that includes logos or marks relating to the Scheme.

11. CONTRACTUAL FEES

- 11.1 The Client agrees to pay the applicable Scheme fees to ACCS within 30 days of the invoice date.
- 11.2 ACCS shall level fees for its services. These include, but are not limited to:
- (a) fees for initial certification and audit – payable at 40% on application; 60% prior to a certification decision being made;
 - (b) fees for compliance sweeps, based on our standard fees and charges for surveillance activity for each outlet or domain operated by the client – payable in advance;
 - (c) fees for surveillance visits – payable upon receipt of the notification of conformance or non-conformance;
 - (d) fees for recertification audits – payable in advance;
- 11.3 In the event that the Client requires the certification services to be aborted, the Client shall pay to ACCS reasonable fees commensurate with the work completed by ACCS. For the avoidance of doubt the reasonable fees will include for the preparation of reports or other deliverable items actually carried out whether or not the Client requires them to be issued.
- 11.4 ACCS shall supply to the Client invoices (showing VAT registration details and amounts where relevant) for payments due under the Contract. Standard payment terms of 30 days from date of invoice shall apply.
- 11.5 The Client shall pay interest at the rate of 1% above the annual base rate published by the National Westminster Bank for any payments not made within 5 days of the due date, not including the day payment was due, and the day payment was actually made.
- 11.6 ACCS shall be entitled to charge cancellation fees for any activities agreed with the Client that have been cancelled by the Client, or if the Client is not available for the scheduled visit, or if ACCS has to abort an activity due to an action or inaction by the Client (for example, where ACCS or its employees considers that the health and safety of an employee will be put at risk by continuing). The cancellation fee shall be the value of the activity plus any related expenses that have been incurred, including but not limited to travel tickets and accommodation.
- 11.7 ACCS shall where possible provide reasonable notice in the event that ACCS needs to cancel or postpone a scheduled activity. Unless agreed with ACCS in advance, the Client shall not be entitled to charge any fees, costs or expenses in the event of such a cancellation or postponement.
- 11.8 ACCS reserves the right to periodically review its fees and shall not be required to provide advance notice of such increase, provided however that if the Client disagrees with any fee increase, it shall be entitled to terminate the Contract upon giving 30 days' written notice.

12. EXPENSES:

- 12.1 Unless otherwise agreed by ACCS, the Client agrees to reimburse ACCS's travel and incidental expenses incurred whilst providing services under this Contract including but not limited to rail travel and subsistence as follows:
- (a) fees for travel based on the standard open rail fare (according to National Rail enquiries) from our base in Stockport plus a reasonable local travel taxi journey from your nearest rail station to your location – all fees for travel are calculated on this basis regardless of the actual manner of travel used and/or whether ACCS were able to secure alternative travel tickets to standard open tickets;
 - (b) fees for accommodation based on an overnight accommodation budget of £100 +VAT outside Greater London and £150 +VAT within Greater London – all hotel accommodation is calculated on this basis regardless of the actual accommodation provided or whether ACCS were able to secure discounted accommodation – journeys within 50 miles of Stockport will not incur accommodation costs.

13. LIABILITY

- 13.1 The Client remains solely liable for its age check services and ACCS does not accept any liability for any service offered or supplied by either the Client or its customers.
- 13.2 Except in respect to death or injury as a direct result of the negligence or fraudulent activity of ACCS, ACCS shall not be liable to the Client for any indirect or consequential loss, including loss of profit arising out of or in connection with this Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise; and the total liability of ACCS to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed an amount equal to the annual fees related to the service giving rise to the liability payable by the Client under the Contract during the calendar year that the liability arises.

14. INDEMNIFICATION

- 14.1 The Client shall indemnify and hold harmless ACCS of and from any loss or damage to property, expenses, all claims, demands, losses, causes of action, damage, lawsuits, judgments, including attorneys' fees and costs, arising out of or relating to:
- (a) any product or service offered or supplied by either the Client or its customers;
 - (b) The use or misuse of ACCS logos or trademarks;
 - (c) Damage or loss of property owned, leased or rented by ACCS
 - (d) Illness, injury or death of any person, including but not limited to employees, subcontractors, customers or suppliers of ACCS or the Client, unless this is directly due to the negligence of ACCS.

15. HEALTH AND SAFETY

- 15.1 The Client shall take appropriate steps to protect the health and safety of ACCS employees or contractors visiting the Clients sites or its customer's sites. The Client is required to adhere to the Health and Safety policy of ACCS when on ACCS's premises.

16. CONFIDENTIALITY

- 16.1 Except for information that the Client makes publicly available, or when agreed between ACCS and the client, or where outlined in the Scheme requirements, or as required by ACCS's accreditation body, ACCS agrees to treat as confidential all information obtained or created during the performance of its certification activities including Information about the Client obtained from sources other than the client, provided however that ACCS may release confidential information as required by law or authorised by contractual arrangements, in which case, unless prohibited by law, ACCS will provide the Client details of the information released.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 ACCS shall at all times remain the owner of the Scheme and all certificates, marks and logos issued.
- 17.2 Upon achieving certification, ACCS grants the Client a limited non-exclusive licence to display the certificate and ACCS logo or certification marks whilst the certification is valid, provided however that such logos and marks are not modified in any way and are used in accordance with the Scheme and any corporate branding guidance issued or provided by ACCS.
- 17.3 The Client may not sub-license or transfer the right to display any ACCS certificate or logos to any other party without the prior written permission of ACCS.
- 17.4 All reports produced by ACCS when providing certification services shall remain the property of ACCS. Where the Client discloses details of any ACCS report to any third party, it must be presented in full and shall not be amended or presented in any format that may mislead the recipient. The Client shall indemnify and hold harmless ACCS against all cost or losses suffered or incurred by ACCS due to claims, demands, suits, proceedings, actions, losses, judgments, damages, costs, including all reasonable legal fees, expenses, fines or penalties against ACCS arising out of or relating to a third party's reliance on the report.

18. THIRD PARTY RIGHTS

- 18.1 A person who is not a party to this Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 or other substantively similar legislation, to enforce any of its terms.

19. NOTICES

- 19.1 A notice required to be given to a party under or in connection with the Contract must be in writing and sent to the other party by email or by registered mail at their registered business address. Notices delivered on a day that is not a working day or after 3:30pm on a working day will be deemed to have been delivered on the next working day.

20. FORCE MAJEURE

- 20.1 Neither party shall be liable for delay of performance or failing to perform, if such delay is caused by circumstances or events outside their reasonable control, including but not be limited to acts of God, war, terrorism, civil commotion or industrial action, provided however that the affected party shall where possible notify the other party of the delay and take reasonable steps to minimise such delays or damages caused by foreseeable events.

21. ENTIRE AGREEMENT

- 21.1 The Contract constitutes the entire agreement between the parties and supersedes all previous agreements, warranties, arrangements and understandings, whether written or oral, relating to its subject matter. For the avoidance of doubt, no terms and conditions of the Client will apply to this Contract.
- 21.2 No variation or amendment to the Contract will be effective unless it is in writing and signed by an authorised representative of each party.