



Caroline Sumners t/a Caroline Sumners Marketing

Terms and Conditions for the Supply of Services

I am so pleased you have decided to use my services or resources - please read the following important terms and conditions before you commit to using them.

This contract sets out:

- your legal rights and responsibilities;
- my legal rights and responsibilities; and
- certain key information required by law.

The intention is that it will bring clarity to our relationship, protect both of us and provide a good solid foundation for this commercial relationship. Please let me know if there are any clauses that you do not understand or that contradict your understanding of my services.

In this contract:

- 'I', 'me' or 'my' means Caroline Sumners t/a Caroline Sumners Marketing; and
- 'You' or 'your' means the person buying or using my services and resources.

If you would like to speak to me about any aspect of this contract, please contact me by e-mail at caroline@carolinesumners.com.

BACKGROUND

I provide marketing and coaching services to businesses ('services'). My services are not suitable for domestic tasks or consumers and therefore consumer protection legislation does not apply to this agreement.

I am a sole trader trading as Caroline Sumners Marketing. My contact address is 3rd Floor, 86-90 Paul Street, London EC2A 4NW.

1 Introduction

- 1.1 If you sign up for my services, you agree to be legally bound by this contract.
- 1.2 If you use any of my free resources (for example podcasts, workbooks, discovery sessions or any other resources I may offer free of charge from time to time) you also agree to be legally bound by this contract as appropriate, excluding the clauses relating to payment.
- 1.3 When signing up for my services or using any resources you also agree to be legally bound by:
 - 1.3.1 my website terms of use and privacy policy;
 - 1.3.2 extra terms which may add to, or replace, some of this contract, for example any specific written contract between us;
 - 1.3.3 specific terms which apply to my services, for example service descriptions which may be set out on the webpage for those services or in email correspondence between us or in a written proposal agreed and signed by us. If you want to revisit these specific terms, please visit the relevant webpage for the programme or look at the services description I have sent you in an email or request it from me.

All these documents form part of this contract as though set out in full here.

2 Ordering services from me

- 2.1 Below, I set out the two ways by which a legally binding contract to buy services between you and me is made:
- 2.2 You place an order on the site by clicking on the relevant payment link. Please read and check your order carefully before submitting it.
 - 2.2.1 When you place your order at the end of the online checkout process by clicking on the payment link on my site, I shall acknowledge it by email. This acknowledgement does not, however, mean that your order has been accepted.
 - 2.2.2 Any quotation given by me before you place an order for services is not a legally binding offer by me to supply such services. Any prices set out in a quotation remain valid for 14 days.
 - 2.2.3 When you decide to place an order for services with me, this is when you make a legal offer to buy such services from me.
 - 2.2.4 I may contact you to say that I do not accept your order, for example if I do not think my services are right for you or there has been a mistake in the pricing or description of the services, or my circumstances have changed since I gave you the quotation for the services.
 - 2.2.5 I shall only accept your order when I confirm this to you by sending you a confirmation email or start to provide the services, whichever happens earlier. At this point:
 - (a) a legally binding contract will be in place between you and me, and
 - (b) I shall start to carry out the services as set out in the programme description on this website or in a services description agreed between us.
- 2.3 Or, for retained services, you enter into a separate Contract for the Supply of Services with Caroline Sumners Marketing.

3 Carrying out the services

- 3.1 The services will be carried out with reasonable care and skill.
- 3.2 We shall use reasonable endeavours to carry out the services within the timescales agreed between us or set out in a services description but time of performance is not of the essence of this contract. This means where we miss a timescale agreed with you, as long as we have used reasonable endeavours to meet the timescale, this will not entitle you to terminate the contract with us or ask for a refund or any form of compensation.
- 3.3 All sessions (including rearranged sessions) must be taken within any timeframe specified in a services description or they will expire.
- 3.4 You can rearrange any session during a programme providing you give us at least 48 hours' notice. If you give us less than 48 hours' notice or fail to turn up for a session, you will be deemed to have taken the session and you will not be able to reschedule it or entitled to any compensation for missing it.
- 3.5 Sessions usually take place remotely via Google Meet or any other means of communication agreed with you in advance. There may be an additional charge for face to face meetings.
- 3.6 Where a session or event is due to take place in person, I reserve the right to move that session or event online where circumstances make it necessary or preferable to do so.
- 3.7 Please note that I may record our calls for training purposes and administration purposes and by entering into this contract with me you consent to the recording of our calls for these purposes.
- 3.8 Our carrying out of the services might be affected by events beyond our reasonable control. If so, there might be a delay before we can restart the services, having made reasonable efforts to limit the effect of any of those events and having kept you informed of the circumstances. We shall try to restart the services as soon as those events have been fixed. Examples of events which might be beyond our reasonable control include pandemics, epidemics, any law or action taken by a

government or public authority, internet failure or other IT problems, if one of our team is ill or if you change the scope of the services you require from us.

- 3.9 To the maximum extent permitted by law, we exclude any and all implied warranties in respect of the services, except as expressly set out in this agreement.

4 Your responsibilities

- 4.1 You will pay the price for the services as set out in the services description.
- 4.2 You will provide us promptly with such information and assistance (and ensure that any information is complete and accurate) as we reasonably need to provide the services.
- 4.3 If you are in breach of this contract, we reserve the right to suspend or curtail the services as we see fit.
- 4.4 You agree:
- 4.4.1 to obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the receipt by you of the services; and
 - 4.4.2 to ensure that you have the right to share any information or materials with us, including any Intellectual Property Rights
- 4.5 If the performance of our obligations under these terms is prevented or delayed by any of your acts or omissions, or those of your agents, subcontractors, consultants or employees, we shall not be liable for any costs or losses incurred by you that arise directly or indirectly from such prevention or delay.
- 4.6 You warrant that you have the right to disclose the confidential information and any materials to us and to authorise us to use it for the purpose of providing the services.

5 Prices and payment

- 5.1 All prices quoted are exempt from VAT.
- 5.2 The price for the services is set out in the services description.
- 5.3 For retained services, we require full payment in advance in order to provide the services. We shall send you an invoice in respect of our fees monthly in advance of the completion of services. Our invoices are payable within 14 days.
- 5.3.1 These fees are non-refundable except, where we cancel the services, you are entitled to a partial refund for services which you have paid for in advance and which you have not received.
- 5.4 For other services, we may agree to payment by instalments. The relevant webpage will state if we have agreed to accept payment by instalments. If we agree to accept payment by instalments and you fail to make any of the instalment payments on the due date then we shall invoice you immediately for the whole of the outstanding balance and payment for that invoice will be due by return.
- 5.4.1 Our refund policy is as follows:
 - (a) where we cancel services, you are entitled to a partial refund for sessions which you have paid for in advance and which you have not received.
 - (b) where you wish to cancel this contract and you give us 30 days' notice in writing, we shall give you a partial refund for the services which you have paid for in advance and which you have not received, but we reserve the right to deduct reasonable compensation for the costs we shall incur as a result of your ending the contract.
- 5.5 In view of our clear no-refund policy, we do not tolerate any type of chargeback threat or actual chargeback from your credit or debit card company. In the event that a chargeback is placed on a purchase or we receive a chargeback threat during or after your purchase, without you seeking repayment from us first: you shall be in breach of this contract; you agree that you will owe us first the sum charged to us by our merchant service provider and secondly a sum based on time spent at

£100 per hour in dealing with your breach; and we reserve the right to report the incident to credit reporting agencies or to any other entity for inclusion in any chargeback database or for listing as non-payment on your account which could have a negative impact on your credit rating.

- 5.6 If any of your payments are not paid on the due date we may suspend services until payment has been made in full [and we may charge interest on any balance outstanding at the rate of 4 percentage points a year above [HSBC Bank plc's] base rate.
- 5.7 We shall ensure that a record is kept of the amount of time spent on the services for our own records.
- 5.8 We shall give you written notice at least 30 days in advance of any increase in our fees. If the increase is not acceptable to you, you may, within 10 days of the date of the notice, terminate this contract by giving written notice to us. In these circumstances the services will cease [28] days after the original notice of the price increase.
- 5.9 We shall be entitled to charge to you any sums reasonably incurred by us in recovering outstanding sums from you including professional and collection agency fees.

6 Intellectual property

- 6.1 In this agreement, 'Intellectual Property Rights' means patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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 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.
- 6.2 In this clause 'Deliverables' means any bespoke documents or other materials produced by us for you and to be supplied to you as part of the services as set out in a services description.
- 6.3 If we provide you with any materials [other than the Deliverables] during the services, whether digital or printed, any Intellectual Property Rights in those materials belongs to us and unless we agree otherwise you can only use those materials for your own internal business purposes to obtain the benefit of our services.
- 6.4 Provided we have received payment in full for our fees, we shall assign to you all Intellectual Property Rights in the Deliverables we shall grant you [an exclusive licence to use the Deliverables for your own internal business purposes in order to enjoy the benefit of our services under the terms of this agreement].

7 Confidential Information

- 7.1 For the purpose of these terms, confidential information means any information one party supplies to the other which it reasonably expects to be kept confidential including but not limited to customer lists, contacts, financial data, sales data, supply sources, business opportunities for new or developing business, plans and models, or trade secrets.
- 7.2 Each party shall keep the confidential information disclosed to it confidential and, except for the purposes of providing the services, or with the other party's prior written consent, shall not:
 - 7.2.1 use or exploit the confidential information in any way; or
 - 7.2.2 disclose or make available confidential information in whole or in part to any third party.
- 7.3 The obligations in 7.2 will not apply to confidential information which:
 - 7.3.1 has ceased to be confidential through no fault of the other party;
 - 7.3.2 was already in the possession of the recipient before being disclosed by the other party;
 - 7.3.3 has been lawfully received from a third party who did not acquire it in confidence; or
 - 7.3.4 is required to be disclosed by law.

- 7.4 Neither of us shall use the other party's confidential information for any purpose other than to perform our obligations under this contract.

8 Personal Data and Data Processing

- 8.1 In this clause:

- 8.1.1 **Data Protection Legislation** means: all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (DPA 2018); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;
- 8.1.2 **UK Data Protection Legislation** means: Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018.
- 8.1.3 'Personal Data', 'Data Subject', 'Data Processor' and 'Data Controller' shall bear the defined meanings allocated to them in Data Protection Legislation; and
- 8.1.4 'Client Personal Data' shall mean all Personal Data comprised in all documents, information and materials provided by you to us relating to the services.

- 8.2 To the extent that we shall process Client Personal Data as your Data Processor, we shall do so in compliance with the obligations placed on us as Data Processor under Data Protection Legislation.

- 8.3 You shall at all times comply with all Data Protection Legislation in connection with the processing of Client Personal Data. You shall ensure all instructions given by you to us in respect of Client Personal Data shall at all times be in accordance with Data Protection Legislation. You shall indemnify us and keep us indemnified against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs arising out of or in connection with any breach by you of your obligations under this clause 8.

- 8.4 We shall:

- 8.4.1 only process the Client Personal Data in accordance with this contract except where otherwise required by applicable law (and shall inform you of that legal requirement before processing, unless applicable law prevents us doing so); and
- 8.4.2 if we believe that any instruction received by us from you is likely to infringe the Data Protection Legislation, promptly inform you and be entitled to cease to provide the relevant services until the parties have agreed appropriate amended instructions which are not infringing.

- 8.5 Taking into account the state of technical development and the nature of processing, we shall implement and maintain appropriate technical and organisational measures to protect the Client Personal Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.

- 8.6 We shall inform you of any addition, replacement or other changes of third parties authorised by us to have access to and process Client Personal Data in order to provide the services ("Sub-processors") and shall provide you with the opportunity to reasonably object to such changes on legitimate grounds. You acknowledge that these Sub-processors are essential to provide the services and that objecting to the use of a Sub-processor may prevent us from providing the services to you. We shall enter into a written agreement with the Sub-processor imposing on the Sub-processor obligations comparable to those imposed on us under this clause, including appropriate data security measures. In case the Sub-processor fails to fulfil its data protection obligations under such written agreement with us, we shall remain liable towards you for the performance of the Sub-processor's obligations under such agreement. You provide general written authorisation to us to engage Sub-processors as necessary to perform the services.

- 8.7 We shall (at your cost):

- 8.7.1 assist you in ensuring compliance with your obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Legislation) taking into account the nature of the processing and the information available to us; and
- 8.7.2 taking into account the nature of the processing, assist you (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of your obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Legislation) in respect of any Client Personal Data.
- 8.8 We may transfer Client Personal Data processed under these terms outside the European Economic Area ("EEA") or Switzerland as necessary to provide the services. If we transfer Client Personal Data to a jurisdiction for which the European Commission has not issued an adequacy decision, we shall ensure that appropriate safeguards have been implemented for the transfer of Client Personal Data in accordance with Data Protection Legislation.
- 8.9 We shall, in accordance with Data Protection Legislation, make available to you such information that is in our possession or control as is necessary to demonstrate our compliance with the obligations placed on us under this clause 8 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any Data Protection Legislation equivalent to that Article 28), and allow for and contribute to audits, including inspections, by you for this purpose. Any information obtained by you as a result shall be treated as confidential.
- 8.10 We shall notify you without undue delay and in writing on becoming aware of any security breach in respect of any Client Personal Data.
- 8.11 On the termination of the provision of the services relating to the processing of Client Personal Data, at your cost and at your option, we shall either return all of the Client Personal Data to you or securely dispose of it (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires us to store such Client Personal Data.
- 8.12 You shall ensure that: Data subjects are provided with appropriate information regarding the processing of their Client Personal Data, including by means of offering a transparent and easily accessible public privacy notice.
- 9 Resolving problems**
 - 9.1 In the unlikely event that there is a problem with the services, please contact us as soon as possible and give us a reasonable opportunity to sort out any problems with you and reach a positive outcome.
 - 9.2 The terms of this contract will apply to any re-performed services.
- 10 End of the contract**
 - 10.1 If a services description specifies a length of time for services to be provided, then subject to clause 10.3 below, the services will terminate at the end of that timeframe.
 - 10.2 If we provide services to you on an ongoing basis and the relevant statement of services does not specify a timeframe then either you or we may terminate the services by 30 days' written notice to each other.
 - 10.3 Either you or we may terminate the services and this agreement immediately if:
 - 10.3.1 the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 14 days after being notified to make such payment;
 - 10.3.2 the other party commits any other material breach of this agreement and, in the case of a breach capable of being resolved, the breach is not resolved within 30 days of a written request to do so. The written request must expressly refer to this clause and state that the contract for services and this agreement will be terminated if the breach is not resolved; or
 - 10.3.3 the other party commits or threatens to commit or is threatened with any act of insolvency under the Insolvency Act 1986.

- 10.4 If this agreement is ended it will not affect our right to receive any money which you owe to us under it and it will not operate to affect any provisions that expressly or by implication survive termination.

11 Limit on our responsibility to you

- 11.1 Nothing in this agreement shall limit or exclude our liability for:
- 11.1.1 death or personal injury caused by our negligence, or the negligence of our employees, agents or subcontractors;
 - 11.1.2 fraud or fraudulent misrepresentation; or
 - 11.1.3 any matter in respect of which it would be unlawful for us to exclude or restrict liability.
- 11.2 Subject to clause 11.1:
- 11.2.1 We shall not be liable to you, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit; loss of sales or business; loss of anticipated savings; loss of or damage to goodwill; loss of use or corruption of software, data or information; or any indirect or consequential loss arising under or in connection with any contract between us; and
 - 11.2.2 our total liability to you for all other losses arising under or in connection with any contract between us, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the total sums paid by you for our services which gave rise to the loss.
- 11.3 This limitation on liability is an integral part of the commercial bargain between you and us and was a controlling factor in the setting of the fees payable to us under these terms.

12 Disputes

- 12.1 We shall try to resolve any disputes with you quickly and efficiently.
- 12.2 If we cannot resolve a dispute using our internal complaint handling procedure and either of us want to take court proceedings, the courts of England and Wales will have exclusive jurisdiction in relation to any contract entered into pursuant to this agreement.
- 12.3 The laws of England and Wales will apply to any contract entered into pursuant to this agreement.

13 Non-disparagement

- 13.1 If there is a dispute between us, you agree not to publicly make any negative or critical comments about our services, or to communicate with any other individual, company or entity in a way that disparages the services or harms our reputation in any way, including on social media.

14 General

- 14.1 **Amending the agreement.** No variation of this agreement shall be valid or effective unless it is in writing and is agreed to by us.
- 14.2 **This is our entire agreement with you.** This agreement constitutes the entire agreement between us in relation to your purchase. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in this agreement and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.