

# Terms and Conditions

## Website Design, Build, Support and Maintenance

### 1.0 Definitions

- 1.1 "The Company" refers to Matrix Media and Marketing Solutions Ltd  
 1.2 "Customer" means any person, organisation or company with whom The Company enters into an Agreement subject to these Terms and Conditions  
 1.3 "Agreement" means any agreement made subject to these Terms and Conditions, which shall incorporate these conditions.  
 1.4 "Project" and "Product" means the product resulting from work performed by The Company.  
 1.5 "Work" means the performance of any task(s) at the Customer's request.  
 1.6 "Results" means all findings and conclusions of the Project Services.  
 1.7 "Project Services" means all research and development undertaken to produce the Project documentation and develop the Project.

### 2.0 General

- 2.1 Entire Agreement. The provisions hereof constitute all the Terms and Conditions of the subject matter hereof and supersede any provisions of any purchase order or sales documentation or any other verbal or written agreement inconsistent with the provisions hereof. Except for changes notified by The Company provided above. These Terms and Conditions may not be altered, amended or modified unless evidenced by a written amendment signed by duly authorised representatives of both parties hereto.

### 3.0 Commencement of Work

- 3.1 The acceptance of a commission shall be deemed as a contractual agreement between the Customer and The Company. The Company cannot always guarantee to start work immediately on a commission but will arrange a date with the Customer as to when work can commence.

### 4.0 Quotations and Estimates

- 4.1 Any Quotation given by The Company is a considered approximation of the likely cost of work. Quotations do not constitute an offer by The Company.  
 4.2 The Quotation is valid from 14 days from the date stated thereon.  
 4.3 Details included within any Quotation given by The Company including general website specification, server specification, hosting specification, general functionality and information within supporting documents such as 'What's Included' and 'The Process' should be considered as a guide only and is subject to change at any time by The Company without notice.

### 5.0 Price and Variation

- 5.1 The Company reserves the right to alter prices at any time without notice. If a Customer has commissioned any services from The Company prior to a change in prices, that commission will not be subject to any increase, but any subsequent commission may be subject to an increase.

### 6.0 Payment

- 6.1 Invoices shall be submitted by The Company in accordance with the payment schedule specified. If no schedule has been specified then the payment terms as detailed in clause 6.2 will apply.  
 6.2 Payment terms will be 50% of the total website cost at the start of the Project with the balance invoiced when the website is completed in the studio at The Company. Completion of the Project will be determined by The Company in accordance to the original Project brief and may not necessarily be when the website itself goes live. All costs quoted by The Company are excluding VAT. VAT will be added at the rate applicable at that current time. Any additional costs such as domain transfers, hosting and maintenance contracts will be billed separately.  
 6.3 All payments are due within 30 days of billing unless otherwise agreed. Late payments will be charged a 1.5% compounded monthly late fee. Such interest is to accrue from the date of the relevant invoice. If the Customer fails to pay any sum due under this Contract, The Company may, without prejudice to any other remedy, after giving the Customer 7 days notice of its intention to do so, cease all work in progress in respect of the Project or any part thereof until the payment be made.  
 6.4 Payments can be made via cheque or BACS payment. BACS payment details will be present on the bottom of all submitted invoices.

### 7.0 Retention of Title

- 7.1 The copyright of all material created and provided by The Company will remain the property of The Company until such a time as payment has been made in full whereupon HTML, text, photography, artwork and flattened image files will become the property of the Customer. The copyright of original creation files including conceptual work outside of the final product and layered image files will remain the property of The Company at all times, provisions can be made for the Customer to purchase these files if required. The Company reserves the right to use all artwork and software created in advancing the profile of The Company.

### 8.0 Intellectual Property

- 8.1 To the extent that the Results of the Project Services or any document, material, idea, data or other information constitutes an original item developed by The Company in performing the Project Services, title thereto and all intellectual property rights therein shall be vested in The Company from the time they are created.  
 8.2 To the extent that the Results or any document, material, idea, data or other information submitted or disclosed by The Company to the Customer in performing the Project Services constitutes a pre-existing proprietary item of The Company or a third party, title thereto and all intellectual property rights therein shall be vested in The Company or such third party (as the case may be) and the rights of the Customer to use and reproduce the same are either set out herein, in the Software License, or in third party licenses. Such licenses shall in no way be deemed to affect or increase The Company's liability for such items arising under this Contract.  
 8.3 Subject to payment of the Price, The Company shall license the Customer to use the Results in accordance with the terms of The Company's Software License. Any Results so licensed shall contain the copyright and any proprietary information notice included thereon.  
 8.4 The Customer shall retain all intellectual property rights in all documents, materials, ideas, data or other information which constitute the pre-existing proprietary items of the Customer and which are submitted by the Customer to The Company for the performance of the Project Services. Upon termination of this Contract, The Company shall return to the Customer or destroy, at the Customer's option, such documents, materials, data or other information, provided however that if the Customer does not notify The Company of its election within one month following termination hereof, The Company shall be entitled to dispose of the same in any manner that it reasonably considers to be appropriate.

- 8.5 All material, both text and images supplied by the Customer and used in the Project, will remain the Customer's property. All such material will be assumed to be the property of the Customer and free to use without fear of breach of copyright laws.  
 8.6 The Company shall not be precluded from developing new proprietary products in the same application areas, or from entering into similar agreements with any third party for products, which may be competitive with the Results.  
 9.0 Confidentiality and Publicity  
 9.1 Each party undertakes at all times to hold in confidence for the other party, to use only for the purposes hereof and not to print, publicise or otherwise disclose to any third party Confidential Information of the other party. "Confidential Information" of the other party means any document, material, idea, data or other information which relates to either The Company's or the Customer's research and development, trade secrets or business affairs or which is marked as confidential and disclosed by either party to the other for the purpose hereof. In addition, pre-existing proprietary items referred to in Sub-Clause 8.4 shall be, or be deemed to be, The Company's Confidential Information. "Confidential Information" of the other party does not however include any document, material, idea, data, or other information which:  
 a) is known to the receiving party, under no obligation of confidence, at the time of disclosure by the other party; or  
 b) is or becomes publicly known through no wrongful act of the receiving party; or  
 c) is lawfully obtained by the receiving party from a third party whilst in making such disclosure breaches no obligation of confidence to the other party; or  
 d) is independently developed by the receiving party; or  
 e) is disclosed by the other party to a third party under no obligation of confidence.  
 9.2 Notwithstanding Sub-Clause 9.1 above, nothing in this Contract shall be construed to prevent or restrict The Company from disclosing or using in the course of its business any technical knowledge, skill or expertise of a generic nature acquired in the performance of this Contract.  
 9.3 The Company may refer to the Customer in The Company's publicity material as being a Customer of The Company, but shall not, without the Customer's permission (which shall not be unreasonably refused), publicise The Company's work under this Contract. The Customer undertakes not to publicise work undertaken by The Company through the use of The Company's name without the prior consent of The Company, which consent shall not be unreasonably withheld.  
 10.0 Search Engines and Web Browsers  
 10.1 If a Customer wishes The Company to promote a website to several search engines as a separate commission, The Company will make every reasonable effort to promote the website effectively but cannot guarantee the website's placing in search engine results.  
 10.2 The Company can accept no responsibility or liability if any search engine, online directory or search site, submitted to as part of a website promotion commission, chooses not to list a Customer's website.  
 10.3 The position a third party search engine lists a website submitted by The Company is totally up to the discretion of the individual search engine.  
 11.0 Website Construction, Hosting and Domain Registration  
 11.1 By registering your domain or website hosting via The Company, The Customer should be aware that these services are provided by a third party and as such The Customer shall agree to fully abide by the Terms and Conditions set out by the third party for such services.  
 11.2 By purchasing a domain name via The Company the Customer is indicating the acceptance of the Terms and Conditions and Domain Dispute Resolution Policy of the relevant domain name authority as published on their websites and as amended from time-to-time.  
 11.3 The Company reserve the right to refuse to construct or host a website, which we may judge as unfit due to content or otherwise. This includes, but is not limited by, websites that promote, endorse, duplicate, link to, or deal with the following: Sexual or sexually explicit material or content. Content that is unlawful, harmful, threatening, abusive, harassing, torturous, defamatory, obscene, libellous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable. Content that infringes upon any trademark, copyright, patent, trade secret, or other proprietary rights of any party. Hacking, warez, virus transmittal, or computer activities of an illegal nature. "Spamming", pyramid schemes, junk mail or the transferral of unsolicited e-mail or advertising techniques. Content that is harmful to minors in any way. Instructional information about illegal activities, promoting physical harm or injury against any group or individual. This may include, but is not limited to, providing instructions on how to assemble bombs, grenades and other weapons, and creating "Crush" websites. Animal cruelty or procedures deemed harmful, unnecessary or unnatural to animals. Any activity considered illegal or contrary to UK laws.  
 11.4 Disclaimer to Third Party Actions and Control. The Company does not and cannot control the flow of data from the Network and other portions of the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions caused by these third parties can produce situations in which Customers connections to the Internet (or portions thereof) may be impaired or disrupted. Although The Company will use commercially reasonable endeavours to take actions it deems appropriate to remedy or avoid such events, The Company cannot guarantee they will not occur. The Customer shall have no claim for any compensation, breach of contract or otherwise in respect of any such period of non-availability.  
 11.5 The Company reserves the right to suspend or cancel all or any of the Services for legal or regulatory reasons. Wherever possible, The Company shall provide notice of such matters. The Customer shall have no claim for any compensation, breach of contract or otherwise in respect of any such period of non-availability.  
 11.6 The Customer accepts that computer and telecommunication systems are not fault free and may experience or require occasional periods of downtime (during which some or all of the Services will not be available) whether for repair, maintenance, upgrading or otherwise, The Company cannot guarantee uninterrupted availability. The Company will use all reasonable endeavours to minimise such periods of non-availability. The Customer shall have no claim for any compensation, breach of contract or otherwise in respect of any such period of non-availability.  
 11.7 The Company will initially place the Customer's website on one of The Company's demonstration web space in order that the Customer may view and comment upon the website's progress. When both The Company and the Customer agree that the website meets the criteria agreed during the commissioning process The Company will supply the final files by either publishing them on the Customer's server, or providing them via a download or on CD-ROM for the Customer to upload independently. The Customer is responsible for ensuring all functionality is working correctly prior to the Project supply.  
 11.8 The Company shall make every effort to ensure the website is designed to be viewed by the majority of visitors. The website will be designed to work with the main browsers at time of commencement of the Project on Apple and Windows operating systems. Main browsers include Safari, Chrome, Firefox and Internet Explorer. Internet Explorer versions older than version 9 will not be supported. The Customer agrees that The Company cannot guarantee correct functionality with all browser software across different operating systems.



- 11.9 The Company shall make every effort to ensure the website is compatible with the most popular mobile operating systems including Apple and Android handsets and tablets at time of commencement of the Project. The Customer agrees that The Company cannot guarantee correct functionality with all mobile browser software across different mobile operating systems and devices.
- 11.10 The Customer agrees that after commencements of the Project, any updated software versions of the main browsers or operating systems detailed in clause 11.8 and 11.9 thereafter may affect the functionality and display of their website. As such, The Company reserves the right to quote for any additional work involved in correcting the website design or website code in order for it to work with the updated browser software or operating system if requested by the Customer.
- 11.11 The Customer agrees that after completion of the Project any changes to associated domain names, IP addresses, nameservers or other hosting related changes thereafter may affect the functionality and display of the website. The Company accepts no responsibility for changes made by The Customer after completion of the Project and as such reserves the right to quote for any additional work involved in correcting the website design or website code in order for it to work with changes made by The Customer.
- 11.12 e-Commerce solutions will involve the use of a Merchant Provider. The Company recommends that the Customer is conversant with the Merchant Provider's Terms and Conditions before choosing to use a Merchant Provider. The Customer has full responsibility for investigating the security, advantages and disadvantages of their selected Merchant Provider as opposed to any other Merchant Provider, and to establish the suitability of the Merchant Provider for their needs. When a Merchant Provider is chosen the Customer is responsible for establishing a suitable Merchant Provider account and supplying details of this account to The Company. These details will be held by The Company for the duration of the Project and then destroyed in a manner deemed suitable by The Company. The Customer's decision to use a Merchant Provider is made based on information available to The Customer supplied by the Merchant Provider, and is not influenced by The Company. The Customer is responsible for ensuring all payment transactions are working correctly prior to the Project supply as specified in Sub-Clause 11.7.
- 12.0 Warranty
- 12.1 The Company shall offer a grace period of 60 days from date of handover of files and/or website launch date where critical updates, bug fixing and security updates are covered for the Project that were covered within the Agreement. The Customer will inform The Company of the updates required within this period. The Company will not be responsible for checking the website for bugfixes or updates in this 60 day period. Updates will be made at The Company's discretion and only if they are believed to be within this grace period Agreement. Critical updates are classified as updates and/or changes to the website that if not made would affect the usability and visibility of the website once online. Critical updates do not include additional functionality, additional code or additional artwork unless deemed acceptable by The Company.
- 12.2 Outside of the period stated in clause 12.1, changes and additional work may be subject to charge at The Company's discretion.
- 12.3 Hourly tasks, work outside of this Agreement, design and placement, editing and arrangement of editorial content are not subject to warranty.
- 13.0 Maintenance
- 13.1 The Company will not maintain or update the Customer's website as part of the commission. If a Customer wishes The Company to maintain or update the website as a separate commission, The Company will negotiate with the Customer a maintenance contract appropriate to the amount of work required. Maintenance can be undertaken on an 'on-demand' basis if the Customer so wishes. A cost will be quoted accordingly prior to undertaking the necessary work required.
- 14.0 Backups
- 14.1 The Company maintains on-site internal backups of active Project code and design files. This backup system is not intended as a solution for the Customer, rather as a resource solely for use by The Company through the duration of this Project. The Company can not be held responsible for any loss of local Project files during the duration of the Project that results in any delay to the Project. Daily backups of live website files for the Project are available as an additional cost to our standard hosting platform and are not activated by default. The Customer shall notify The Company if they wish to activate these daily backups. Daily backups of live website files are provided through a third party hosting provider and is subject to the agreement in clause 11.1.
- 15.0 Security, Viruses and Hacking
- 15.1 The Customer agrees that the Company will not be liable for any loss or damage caused by any DoS (Denial of Service) or DDoS (Distributed Denial of Service) attack, viruses or other technologically harmful material that may infect The Customers computer equipment, computer programs, data or other proprietary material due to your use of the website or to your downloading of any material posted on it, or on any website linked to it.
- 15.2 The Customer agrees that whilst the Company will make every effort to provide a secure finished Product, the Company can in no way guarantee that the finished Product will not be subject to hacking, security breaches or be vulnerable to any other form of malicious attack on the website including DoS (Denial of Service) or DDoS (Distributed Denial of Service) attacks. The Company will in no way be liable for damages or downtime related to security breaches to the website or hosting provider on which the website resides.
- 15.3 The Company may advise on best practices of maintaining a good security regime and website maintenance schedule, however this is at the Company's discretion and the Company will not be expected to undertake this work as part of the commission as detailed in clause 13.1.
- 16.0 Point of Contact and Response Times
- 16.1 The Company will require one point of contact during the Project for clarifying requirements for design, key features, usability, maintenance and supply of website content and material. The Company requires this contact be available to answer questions arising from the Project within 48 hrs on workdays (subject to reasonable exceptions), and to have authority to make design and related decisions on the system.
- 16.2 Within the duration of this Project The Company will make every effort to reply to enquiries within 48 hours except where The Customer has been previously notified of a period of limited availability. The Company will respond in good faith but cannot guarantee any specific action will be taken within any given time frame.
- 17.0 Independent Contractors
- 17.1 The Company retains the rights to subcontract any portion of the Project if necessary.
- 18.0 Schedule
- 18.1 The estimated timeframe for a website build is typically 4-6 weeks. This is a guide only and is subject to change by the Company depending on the complexity of the website, the amount of bespoke coding required and time taken by the Customer for submission of content including but not exclusive of; text, copy writing, proof reading, images, graphics, photography, requests, authors correction, hosting and domain name details, e-Commerce Merchant details for accepting payment and any other delays caused by the Customer that are deemed outside of The Company's reasonable control.
- 9.0 Re-Schedule or Termination
- 19.1 The Customer shall notify The Company in writing at least 14 days prior to the scheduled delivery date of the Project if it wishes to delay. The Company may at its own discretion either treat such notification as a termination to which clause 19.2 applies or establish a new scheduled delivery date of the Project.
- 19.2 Either party may terminate the Project upon 14 days prior notice in writing to the other party. In this event the Customer shall pay The Company:
- for all work performed hereunder up to and including the date of such termination on a time and materials basis at The Company's then current fee rates; and
  - for the costs and expenses relating to equipment, materials or services obtained or ordered in connection with providing the Project which cannot reasonably be defrayed elsewhere.
- 19.3 Either party may terminate this Contract forthwith by written notice to the other party if:
- the other party shall commit a material breach of any of its obligations under this Contract and shall not have remedied such breach within 30 days of receiving written notice of the breach; or
  - the other party shall become bankrupt or enter into liquidation (other than for reconstruction or amalgamation) or have a receiver appointed of its assets or any part thereof or an administration order is served upon it.
- 20.0 Additional Work or Expense, or Delay: Customer Default
- 20.1 If the Customer fails or delays in fulfilling any Customer Obligation, The Company may revise the Price and any timetable of work and/or delivery dates. In this The Company shall promptly, following the failure or delay, provide the Customer with a notice describing in reasonable detail the additional costs and expenses and/or delay that have been or are likely to be incurred by The Company as a result thereof and the Customer shall:
- pay The Company for additional costs and expenses incurred by The Company on a time and materials basis at The Company's then current fee rates; and
  - grant a reasonable extension for the performance of this Contract.
- 21.0 Force Majeure
- 21.1 Neither party shall be liable for any failure to perform any of its obligations under an Order if its performance has been interfered with, hindered, delayed or prevented by any circumstances which are not reasonably within the control of that party.
- 22.0 Limitation of Liability
- 22.1 The Company shall indemnify the Customer and keep the Customer indemnified against any loss or damage to any property (excluding data) or injury to or death of any person caused by any wilful misconduct of The Company, its employees or agents. The Company's entire liability to the Customer shall not exceed a sum equivalent to the purchase price of the Contract.
- 22.2 Except in respect of injury to or death of any person (for which no limit applies) the respective liability of The Company and The Customer in respect of each event or series of connected events shall not exceed £1,000.00.
- 22.3 The Customer shall indemnify The Company and keep The Company fully indemnified against any loss of or damage to any property or injury to or death of any person caused by use of the Results or any costs claim or action including third party claims arising out of the supply of the Results to the Customer unless caused by wilful misconduct of The Company, its employees or agents.
- 22.4 Notwithstanding anything else contained herein The Company shall not be liable to the Customer for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever.
- 22.5 While The Company shall exercise reasonable care in the performance of the Project Services, the Customer acknowledges that in producing the Results The Company has relied upon the Customer to determine its own requirements and that it has in producing these requirements not relied upon The Company's skill and judgement. Such assistance as has been given by The Company has been provided in the capacity of supplier.
- 23.0 Waiver
- 23.1 No delay or failure of either party in enforcing against the other party any term or condition of this Contract, and no partial exercise by either party of any right hereunder, shall be deemed to be a waiver of any right of that party under this Contract.
- 24.0 Legal Constructions
- 24.1 The parties have read and understand this Contract and agree that it constitutes the complete and exclusive statement of the agreement between them with respect to the subject matter hereof which supersedes all proposals, representations, understandings and prior agreements, whether oral or written, and all other communications between them relating thereto.
- 24.2 Clause headings are inserted for convenience of reference only and shall not affect the interpretation of this Contract.
- 24.3 The expression "this Contract" means the General Terms and Conditions and any other document which is agreed by the parties and expressly designated to form a part of this Contract and includes any variation thereto which shall have been agreed in writing by the parties.
- 24.4 If the scope of any of the provisions of this Contract is too broad in any respect to permit enforcement to its full extent, then the parties agree that such provision shall be enforced to the maximum extent permitted by Law and that such provision shall be deemed to be varied accordingly.
- 24.5 No purported variation of this Contract shall take effect unless made in writing and signed by an authorised representative of each party.
- 24.6 This Contract shall be governed by English Law and the parties hereby submit to the jurisdiction of the English Courts.
- 25.0 Miscellaneous
- 25.1 By agreeing to these Terms and Conditions your statutory rights are not affected.
- 25.2 The Company reserves the right to change or modify any of the Terms and Conditions contained in the Terms and Conditions.

