

TERMS AND CONDITIONS FOR THE PROVISION OF WORKS (WEBSITE AUDIT)

These terms and conditions are between the Client named in the Sales Order Form (the Client) and Connect Internet Solutions Ltd (a company registered in England, Registration number 04414350, VAT registration number: 758 2838 85), of (address and registered office) New Barratt House, 47 North John Street, Liverpool, L2 6SG, UK (Connect) for the provision of Works.

1. Definitions

Agreement means these terms and conditions, the Sales Order Forms and the Proposals

Intellectual Property Rights means any patents, registered designs, trademarks and service marks (whether registered or not), and applications for any of the foregoing, copyright, know-how, confidential information, moral rights, rights in and to databases and all similar and/or analogous rights subsisting at any time in any part of the world.

Sales Order Form means the order form which sets out the client details and the price

Proposal means the service proposal submitted by Connect and accepted by the Client

Price means the charges for the Works as set out in the Sales Order Form and the Proposal

Target Site means the digital product or website to be audited as detailed in the Proposal

Website Audit means the inspection of the Target Site performed by Connect over an agreed time period (Audit Period) for the purpose and to the extent indicated in the Proposal and Sales Order

Works means the Website Audit and report (Audit Report) to be undertaken or performed by Connect as detailed in the Sales Order Form and the Proposal

Working Days means on any day except a Saturday, Sunday or statutory bank holiday between the hours of 9am and 5pm (UK time).

2. Formation of contract

All services provided by Connect are subject to these terms and conditions to the exclusion of any other terms and conditions contained or referred to in any communication by the Client. This Agreement shall contain the sole terms and conditions of the provision of any services by Connect.

3. Connect's obligations

3.1 Connect hereby undertakes to:

(i) create, perform and design the Works

(ii) comply with all applicable rules, regulations, codes of practice and laws of England relating in any way to the creation and design of the Works; in accordance (where relevant) with the Proposal

4. Client obligations

4.1 The Client undertakes to provide Connect promptly with any information and documentation which Connect may reasonably require from time to time to enable Connect to undertake the Works. The Client shall, for the purposes of the Agreement, afford to the authorised personnel of Connect during Working Days, full and safe access to its business premises and shall provide adequate free working space and such other facilities as may be necessary for the performance of the Works.

4.2 The Client undertakes not to change the Target Site in any way during the Audit Period. For the avoidance of doubt such changes include technical, hosting, functional, data and content revisions removals and additions.

4.3 The Client acknowledges that the Audit Report reflects the Target Site as it was made available to Connect during the Audit Period only and any subsequent changes to the Target Site will result in the Audit Report being deemed no longer valid. For the avoidance of doubt such changes include technical, functional, data and content revisions removals and additions.

4.4 The Client undertakes to conduct user acceptance testing with reference to the Proposal and any subsequently agreed and documented requirements within the 21 day calendar day period following the Works being made available for this purpose. The Client agrees that the Works will be deemed concluded and satisfactory after this 21 day period except for any issues agreed between the parties and arising from user acceptance testing undertaken within this period.

5. Licence and assignment

5.1 Connect shall, where applicable, grant to the Client (or procure that there is granted to the Client) a non-exclusive, non-transferable, non-sublicensable perpetual licence to use the Works, excluding open source software and commercial software that may be incorporated into the Works.

6. Payment

6.1 The Client shall pay the Price for the Works in accordance with the payment mechanism set out in the Sales Order Form and the Proposal.

6.2 The Price shall be payable within 15 days of the date of Connect's invoice.

6.3 The Price is exclusive of Value Added Tax which shall also be paid by the Client.

6.4 Payments are to be made by the Client in pounds sterling, except if otherwise agreed by both parties in which case it is understood that prices expressed are converted on the basis of the official exchange rate at the date of signature of the Agreement. The client agrees to support any loss caused by a fluctuation of the exchange rate occurring until the complete performance of the Agreement.

6.5 Where the Price includes third party costs necessary for the delivery of the Works and over which Connect has no control, the Client agrees to reimburse any loss incurred by Connect as a result of fluctuation in third party pricing until complete performance of the Agreement.

6.6 Unless agreed otherwise prior to acceptance of this Sales Order the following Payment Plan applies: 40% Price deposit on confirmation of Order, 40% Price on handover of the Works for user acceptance testing, 20% Price on sign-off of the Works.

6.7 If any element of the Price payable under this Agreement is not paid by the Client within 7 days after the due date, Connect shall be entitled (without prejudice to any of its other rights) to charge interest at 4% above the base rate from time to time of Barclays Bank plc from the date of such notice until payment is made such interest accruing from day to day and being payable after as well as before any judgement.

6.8 Connect may suspend (without prejudice to its other rights and remedies) its performance of the Works whilst any monies due for payment by the Client are outstanding.

7. Intellectual property rights

7.1 The Client acknowledges that all Intellectual Property in the Works is owned and is the sole property of Connect.

7.2 Connect acknowledges that any and all the Intellectual Property Rights in the content including all information and data published on any website which has been developed by Connect as part of the Works will be the sole property of the Client (unless otherwise agreed in writing).

7.3 The Client will allow Connect to use its name solely for advertising and reference purposes.

8. Warranties

8.1 Connect warrants to the Client that the Work shall be performed with reasonable skill and care and in compliance with all applicable English laws, enactments, orders, regulations and other similar instruments in force from time to time.

- 8.2 Connect does not warrant that the Works will be free from errors and omissions.
- 8.3 Connect will address errors in the Works excluding any third party components provided such errors are agreed between the parties as a non-compliance with the Proposal and any subsequent agreed and documented Specification and provided such errors are reported in the specified way by the Client within 45 working days of the Works being delivered to the client for acceptance testing.
- 8.4 Except as expressly set out in the terms all conditions, terms, warranties, undertakings and obligations express or implied by statute (including without limitation, those of satisfactory quality or of fitness for a particular purpose (even if that purpose is made known expressly or by implication to Connect)), common law, custom, trade usage or otherwise and all liabilities in respect of the same (if any) are excluded.
- 9. Limitation of liability**
- 9.1 Connect is not and will not be liable to the Client for any loss of profits; loss of business; loss of goodwill; incidental loss; special loss; consequential loss or indirect loss incurred as a result of or in connection with the Agreement, whether arising in the law of contract, tort or otherwise and notwithstanding that such loss was foreseeable at the date of this Agreement.
- 9.2 Nothing in the Agreement excludes or limits the liability of either party for death or personal injury caused by its negligence or for fraud.
- 9.3 Other than in respect of clause 9.2 and subject to clause 9.1 Connect's maximum aggregate liability in contract, tort, negligence or otherwise arising out of or in connection with this Agreement will be limited in aggregate to the Price.
- 10. Termination**
- 10.1 Either party may terminate the Agreement forthwith in the event that:
- (i) the other is in material breach of the Agreement provided such breach (where capable of remedy) has not been remedied within 30 (thirty) days of receipt of written notice from the terminating party specifying the breach and requiring its remedy.
 - (ii) the other party passes a resolution, or the court makes an order, that such other party be wound up otherwise than for the purpose of bona fide reconstruction or amalgamation, or a receiver, manager, administrative receiver or administrator on behalf of a creditor is appointed in respect of such other party's business or any part thereof, or circumstances arise which entitle the court, otherwise than for the purpose of a bona fide reconstruction or amalgamation, to make a winding up order.
- 10.2 Connect may terminate this Agreement if the Client is subject to a change in control (as defined by section 416 of the Income and Corporation Taxes Act 1988).
- 11. Effects of termination**
- 11.1 On the expiration or termination of this Agreement howsoever caused:
- (i) all rights and obligations of the parties under this Agreement shall automatically terminate except for such rights of action as shall have accrued prior thereto and any obligations which expressly or by implication are intended to come into or continue in force on or after such expiration or termination;
 - (ii) the Client shall pay Connect for all unpaid charges and reimburse expenses accrued up to the date of expiration or termination
- 12. Confidentiality**
- 12.1 Subject to clauses 12.2 and 12.3 and save as otherwise expressly provided in this Agreement, neither party hereto shall during the life of the Agreement or thereafter disclose to any person or use for any purpose any information of a confidential nature obtained by it (the "Recipient Party") from the other (the "Disclosing Party") in connection with this Agreement but the Recipient Party may:
- (i) disclose any such information to such of its representatives who require such disclosure where bona fide necessary for the proper performance of their duties provided that the Recipient Party has given any such representative prior written instruction as to the restrictions on use and disclosure contained in this Agreement
 - (ii) use such information in the proper exercise of its rights and the performance of its obligations under this Agreement
- 12.2 The Recipient Party shall use its reasonable endeavours to minimise the risk of unauthorised disclosure or use by representatives of information received from the Disclosing Party.
- 12.3 The restrictions on use and disclosure of information under clause 12.1 shall not apply to any information which the Recipient Party can prove:
- (i) was already known to it prior to its receipt thereof from the Disclosing Party; or
 - (ii) was subsequently disclosed to it lawfully by a third party who did not obtain the same, (whether directly or indirectly) from the Disclosing Party; or
 - (iii) was in the public domain at the time of receipt by the Recipient Party or has subsequently entered into the public domain other than by reason of the breach of the provision of this clause 12 or any obligations of confidence owed by the Recipient Party to the Disclosing Party; or
 - (iv) it is required to disclose by law, regulation or order
- 13. Assignment and sub-contracting**
- 13.1 The Client shall not be entitled to assign, transfer or sub-contract any of its rights or obligations under this Agreement without Connect's prior written consent.
- 14. Notices**
- 14.1 All notices to be given under this Agreement shall be in writing in English and left at or sent by first class mail or fax to the appropriate address shown at the head of this Agreement or left at or sent to such other address as the party concerned may from time to time designate by notice pursuant hereto. Any such notice shall be deemed given:
- (i) at the time when the same is left at the addressee's address; or
 - (ii) on the second Working Day after the same shall have been properly posted; or
 - (iii) in the case of a fax, on the first Working Day after the day of transmission by the fax operator provided that the transmitting fax machine generates upon completion of the transmission a transmission report stating that the notice has been duly transmitted without error to the addressee's fax number
- 15. Waiver**
- 15.1 Failure by either party at any time to enforce the provision of this Agreement or to require performance by the other of any of the provision of this Agreement shall not be construed as a waiver of any such provision or its breach and shall not affect the validity of this Agreement or any part thereof or the right of such party to enforce any provision in accordance with its terms. Any waiver by either party must be in writing signed by a duly authorised signatory.
- 16. Entire agreement**
- 16.1 This Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and supersedes and replaces all prior communications, representations, warranties, stipulations, undertaking and agreements whether oral or written between the parties relating to such subject matter.
- 16.2 The Client acknowledges that in entering into this Agreement it does not rely on and will have no remedy in respect of any statement,

representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as set out in this Agreement. Nothing will operate to limit or exclude any liability for fraud.

17. Relationships

17.1 Nothing contained in this Agreement shall constitute a partnership or agency between any of the parties and neither party shall hold itself out as a partner or agent of the other party.

18. Force Majeure

18.1 Neither party shall be liable hereunder for delay to the extent it is due to events occurring outside its control provided the party relying on this clause immediately gives written notice to the other of the event and uses and continues to use all reasonable efforts to overcome the event and perform this Agreement. The party suffering the event shall have its time for performance of its obligations extended by a period equal to the delay.

19. Variation

19.1 Any variation in this Agreement shall only be binding if it is recorded in a document signed by an authorised representative of each party.

20. Validity

20.1 Should any provision of this Agreement become void or otherwise unenforceable for any reason, the validity of the remaining provision shall not be affected thereby and the parties shall use their best endeavours to replace the provision which is void or unenforceable with a provision of similar economic effect.

21. Third Party Rights Act

21.1 A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

22. Law

22.1 This Agreement shall be governed and construed in accordance with the laws of England and each party submits to the exclusive jurisdiction of the English Courts in respect thereof.