

Standard terms and conditions

Definitions

In these terms and conditions ("Terms and Conditions") the following terms shall have the following meanings:

'Acceptance' means acceptance of the Website, Services or Goods (including any bespoke software) by the Customer following Delivery of the Goods and/or Services;

'the Company' means CRB Associates Ltd;

'the Contract' means the contract made between the Customer and the Company for the sale and purchase of the Goods and/or Services upon the Terms and Conditions set out below;

'the Customer' means the party with whom the Company contracts;

'Delivery' means completion of the project and delivery of the Goods and/or Services to the Customer;

'Goods' means the products sold by the Company to the Customer under the terms of this Contract;

'ISP Services' means web hosting, e-mail accounts and connection accounts;

'Design Services' means Website, print and presentation design, Website promotion and internet training;

'the Price' means the price of the Goods and/or Services specified in the Company's quotation or other communication and agreed between the Company and the Customer;

'Order' means an official purchase order or other commitment to purchase signed by an authorised individual on behalf of the Customer;

'Server' means the cloud server computer which is integrated into the worldwide web via the internet and used as an internet service provider;

'Services' means the services provided by the Company to the Customer under the terms of the agreed Contract;

'Website' means the website of the Customer as supplied by the Company.

1. General

1.1 Any contract howsoever made for the supply of Goods and/or Services by the Company to the Customer shall incorporate these Terms and Conditions, which shall apply to the exclusion of any provisions in any document issued by the Customer (unless stated to the contrary). In the event of the Customer seeking to incorporate special conditions into the contract these shall not apply unless they are accepted and agreed by an authorised officer of the Company in writing.

1.2 The Customer, by placing an order for the Goods and/or Services, confirms their acceptance of the Contract and agrees to be bound by the terms of this Contract.

1.3 No employee, agent or contractor of the Company has power to vary any of these Terms and Conditions. Variations (if any) must be in writing and signed for on behalf of the Customer and Company by a director, partner or proprietor of the Customer.

1.4 Any quotation given by the Company to the Customer is an invitation to the Customer to make an offer to buy the Goods and/or Services only within the period stated on the quotation.

1.5 The Company reserves the right to accept or reject any order offered by the Customer and shall not be bound until it communicates its written acceptance of the Customer's order to the Customer at any time prior to the Delivery of the Goods or Acceptance of the Services.

2. Commencement

2.1 The date of commencement of this Contract will be the date of execution by both the Company and the Customer of this Contract.

3. Price

3.1 The Price for the Services is specified and may be varied if the Customer's requirements change during development. Any such change must be agreed in writing by the Company and the Customer.

3.2 The Price for any given Contract will be valid for a period as specified on the corresponding quotation document (typically 30 days). An Order may be placed at any time during this period in order to guarantee the quoted Price; after this period the Price may be subject to change (requotation) at the Company's discretion.

3.3 All Prices are exclusive of any applicable VAT and all other duties or tariffs arising in the UK or elsewhere.

4. Payment

4.1 Unless otherwise agreed by the Company, payment of the full Price (including VAT and any other charges) for the Goods and/or Services shall be made within 30 days of the invoice date unless payment by instalments has been specified. Payments for Design Services only are normally due on completion.

4.2 Where the Company and the Customer have agreed that payment for the Goods/and or Services shall be made in instalments, payment shall be made as set out in an agreed Schedule.

4.3 If the Customer fails to make any payments at the due date in accordance with these Terms and Conditions the amount unpaid shall bear interest at the rate of base rate plus eight per cent per month compounded, such interest to accrue in the case of a part of a month from day to day at one thirtieth of the monthly interest. A debt recovery charge may also be levied in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

4.4 The Company reserves the right to cease Design Services, suspend ISP Services or remove the Customer's Website from view, if at such time there is dispute or delay over an agreed payment.

5. Completion

5.1 Where required, completion date(s) will be agreed between the Company and the Customer prior to commencement of work, or at appropriate times during Delivery. The Company agrees to be bound to such dates except where any necessary feedback and/or approval is not supplied by the Customer in a timely manner, or when work is interrupted or delayed by events outside of the Company's control.

5.2 The Company will agree to provide compensation to the Customer in respect of any agreed completion dates which are missed as a result of the Company's actions. The nature and amount of such compensation will be agreed between the Company and Customer on a case-by-case Contract basis.

5.3 Any claim of the Customer that the Company has failed to despatch from its premises the specified quantity or type of Goods shall be made in writing no later than 3 days after receipt by the Customer of the Goods. In no circumstances shall the company be liable in default of notification within such period.

6. Copyright and Intellectual Property

6.1 Upon Delivery of Goods and/or Services, ownership of all visual designs/templates, publicly accessible code and all content/data held within the supplied system, both at the point of Delivery and on an ongoing subsequent basis, become the property of the Customer.

6.2 Ownership of server-side code used to provide functionality to a Delivered system remains the property of the Company, and is made available to the Customer on an ongoing licence basis, for as long as the Customer wishes to continue the supply Contract.

6.3 Any third party copyright materials used by the Company on behalf of the Customer cannot be used by the Customer without first seeking the third parties permission or agreement.

6.4 If the Customer supplies the Company with text, photography, artwork, animations, brochures, technical or personal data, information or material of any kind, the Company will not at any time be responsible to the Customer or any third party whatsoever in regard to copyright, errors or omissions, faults or subsequent damages in such information. This also includes that information supplied by software, discs, electronic transfers or orally if supplied by the Customer to the Company for publishing to the Website.

6.5 The Customer agrees to comply with the terms of any agreements reasonably required by the owner of intellectual property rights in any such software or documentation relating to the protection of those intellectual property rights.

7. Company's Liability

7.1 The Company's liability with regard to Goods and Services supplied shall at any time be determined by the prevailing English law.

7.2 The Company expressly excludes liability for consequential loss of anticipated business, savings or goodwill.

7.3 In the event that any exclusion contained in this Contract shall be held to be invalid for any reason and the Company becomes liable for loss or damage that it may otherwise have been lawful to limit, such liability shall be limited to the Price of the development work.

7.4 The Company shall not be liable for acts or omissions over which it has no control.

7.5 The Company does not exclude liability for death or personal injury to the extent only that the same arises as a result of the negligence of the Company, its employees, agents or authorised representatives.

8. Indemnity

8.1 The Customer shall indemnify the Company fully against all liabilities, costs and expenses which the Company may incur as a result of work done in accordance with the Customer's instructions in development and/or hosting of the Website involving infringement of any copyright, patent or other proprietary right (including but not limited to framing or linking to third party Websites and/or third party proprietary material).

8.2 The Customer agrees to indemnify and keep indemnified the Company, its successors and assigns, and each of their respective directors, officers, employees and agents from and against any and all liability, damages, losses, claims (including reasonable legal fees) resulting in any way from its use of and from any material posted on the Website, to its discussion groups or from any other matter relating to this Contract including but not limited to use of the information contained on the Website based on the Customer's contribution, from discussion groups or arising from any introduction or collaboration resulting therefrom or otherwise arising from the Website.

8.3 In the event that any such infringement occurs or may occur, the Customer may instruct the Company at the Customer's expense to:

- (i) procure for the Customer the right to continue using the infringing material; or
- (ii) modify or amend the infringing material so that the same becomes non infringing; or
- (iii) replace the infringing material with other material of similar capability.

8.4 The Customer waives any right to bring any claim or action against the Company or its successors and assigns for any loss, damage or injury arising from use of the Website or any material from the Website as in 8.2 above.

8.5 The Customer agrees to indemnify the Company for any claim made against the Company arising from content published by or approved by the Customer.

9. Service and Alterations

9.1 For some web development it may be technically impracticable to provide the Service free of faults and the Company does not undertake to do so. The Company will correct reported faults as soon as it reasonably can during the "snagging" period agreed.

9.2 Occasionally the Company may:

- a) for operational reasons change the technical specification of the Services (provided that it does not materially affect the performance of the Service);
- b) temporarily suspend the Services for necessary repair, maintenance or improvement of the Services. The Company will restore Services as soon as it reasonably can after temporary suspension;
- c) give instructions about the use of the Services which the Company thinks are reasonably necessary in the interests of health, safety or the quality of the Service to the Customer or any other customer.

9.3 All text must be provided by the Customer in electronic format and all photographs and other graphics must be provided in high quality print suitable for scanning or in a suitable electronic format. Additional expenses may be incurred and will be invoiced accordingly for corrective work, conversion of media and outside facility charges. Content changes must be

submitted to the Company electronically unless agreed in advance and incorporated in the Contract.

9.4 Whilst the Company will make every endeavour to carry out instructions accurately, it is the responsibility of the client or reseller to proof alterations, information or details. The Company does not accept liability for accuracy of alterations or loss of business resulting from inaccuracy.

10. Domain Name Registration and Search Engine Submission

10.1 All domain names are registered in the Customer's name and not that of the Company. The Company acts as an agent in the registration of domain names, and the resulting domain registration contract exists between the Customer and the appropriate domain naming authority. The Customer agrees to be bound by the terms and conditions of the appropriate naming authority's contract.

10.2 The Company cannot guarantee that they will be able to register any requested domain name and until specific confirmation of registration has been received the Customer cannot assume registration has been effected.

10.3 The Company supplies and offers domain name registration in all good faith and advises the Customer that the Company will not be held liable for any claims, damages, penalties and expenses arising from any third party allegations that the registered domain name infringes any rights owned by such third parties.

10.4 Although the Company will try to keep the Customer informed regarding forthcoming domain name expirations, the Customer takes full responsibility for renewal of their domain name(s). In the event that any such renewal application is rejected by the relevant domain name authority, the Company accepts no liability for such rejection.

10.5 The Company will try to ensure the Customer's site is submitted to the agreed search engines but will not be held responsible for poor ranking or non-appearance.

11. Hosting Conditions

11.1 The Customer acknowledges and agrees that the Company is entitled at any time and without notice to remove the Website from its server and/or bar access to the same in the event of any violation or alleged or suspected violation of any relevant laws. In the event the Company is informed by government authorities of inappropriate or illegal use of Company facilities, the Company may terminate the Customer's service.

11.2 The Customer undertakes that any material contained in or linked to its Website and (if applicable) contained in its discussion group, chat room or bulletin board ("Material") must comply with the following basic standards:

- (i) all information and activities must be legal, decent and honest (in terms of applicable law and standards);
- (ii) no information may be unlawful, obscene, threatening, abusive, libellous, or encourages conduct that would constitute a criminal offence, give rise to civil liability, or otherwise violate any applicable law;
- (iii) data protection legislation within the law must be adhered to in order that the collection of personal information is not traded or disclosed illegally.

11.3 The Customer undertakes to comply with generally accepted principles of internet usage (whether governed by the laws of any jurisdiction or not) including:

- (i) refraining from sending "spam mail" (i.e. unsolicited mass communications);
- (ii) never sending mail bombs, trojan horses, viruses or other disruptive programs or devices;
- (iii) never pirating or otherwise illegally copying software or other proprietary material;
- (iv) never violating the security of any Website or engaging in unauthorised decryption of protected material.

12. Security

12.1 The Customer is responsible for the security and proper use of user names, passwords and security passwords used in connection with the Services and must take all necessary steps to ensure that they are kept confidential, used properly and not disclosed to unauthorised people. The security passwords must not be disclosed to any third parties.

12.2 The Customer must immediately inform the Company if there is any reason to believe that a user name, password or security password has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.

12.3 The Company reserves the right to suspend user name and password access to the Customer's Website if at any time the Company considers that there is or is likely to be a breach of security.

12.4 The Customer must immediately inform the Company of any changes to the Customer's details, which the Customer supplied when registering for the Services.

13. Warranties

13.1 The Company's obligations in respect of any defective Goods shall be limited to the repair or replacement (at the Company's discretion) of the Goods concerned together with further damages (if adjudged to be payable) not exceeding the aggregate Price of the Goods. Save as aforesaid the Company shall not be liable to the Customer or any third party for any indirect consequential or economic loss or damage howsoever caused or for any loss of profit.

13.2 The Customer must inspect the Goods as soon as it receives them and must notify the Company within three working days of any apparent defect.

13.3 The Company is not liable to the Customer either in contract, tort (including negligence) or otherwise for the acts or omissions of other providers of telecommunications or internet services (including internet registration authorities) or for faults in or failures of their equipment.

13.4 The Company does not warrant that the hosting Services or the Server will be continuously available 24 x 7 x 365 but will use its reasonable endeavours to keep downtime to a minimum and within the limits set out in the hosting service level agreement which forms a part of the Contract.

13.5 The Customer accepts the hosting Service and Server "as is" with any faults or failings and without any representation, warranty or guarantee whatsoever, express or implied, including without limitation any implied warranty of accuracy, completeness, quality, continuity of service, connectivity, merchantability, fitness for a particular purpose or non-infringement.

14. Confidentiality and Data Protection

14.1 The Company will retain information on the Customer which it obtains from the Customer relating to the ownership of the Customer, the Goods and/or Services which it purchases and the methods and time of payments.

14.2 All information, drawings, specifications, documents, contracts, design material and all other data which the Company may have imparted and may from time to time impart to the Customer relating to its know-how, its business, clients, prices, services, software, bespoke software, the Website, contracts (including this Contract), Website design, architecture and content (including any technical specifications therefor), is proprietary and confidential.

14.3 The Customer hereby agrees that it will use such confidential information and all other data solely for the purposes of this Contract and that it will not, at any time during or any time after the completion, expiry or termination of this Contract use or disclose the same whether directly or indirectly, to any third party without the Company's prior written consent.

14.4 The Customer shall keep in confidence any information of a confidential nature relating to the Service obtained from the Company under this Contract and must not disclose such information to any other person without the Company's prior written consent, provided that this restriction does not apply to information which is:

- (i) in the public domain otherwise than in breach of this Contract;
- (ii) lawfully obtained from a third party which is free to disclose it;
- (iii) required to be disclosed by law or a competent authority; or
- (iv) in the lawful possession of the Customer prior to disclosure.

The restrictions in this paragraph shall survive the termination or expiry of this Contract.

14.5 The Customer further agrees that it will not itself or through any subsidiary or agent use, sell, license, sub-license, create, develop or otherwise deal in any confidential information supplied to it by the Company or obtained pursuant to this Contract.

15. Termination

15.1 The Customer may terminate the Contract by indicating their intention not to renew hosting/licensing at the appropriate time annually, or at any time provided that all agreed payments have been made. Termination of the Contract will result in withdrawal of any web hosting or other Services supplied by the Company.

15.2 Notwithstanding any other provisions contained herein, and without prejudice to any other rights such party serving notice may have, the Company may forthwith terminate this Contract by written notice to the Customer if any of the

following events will occur:

- (i) if the Customer commits any breach of the terms or conditions of this Contract including the terms, conditions and provisions of any schedule attached or adopted hereto and fails to remedy such breach (unless it is a breach which entitles the Customer to terminate this Contract immediately or insofar as such breach is not capable of remedy to furnish adequate compensation therefor) within thirty (30) days after receiving written notice requiring it to do so; or
- (ii) if the Customer becomes bankrupt or compounds or makes any arrangement with or for the benefit of its creditors or (being a company) enters into compulsory or voluntary liquidation or amalgamation (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency) or has a receiver or manager appointed of the whole or substantially the whole of its undertakings or if any distress or execution will be threatened or levied upon any equipment and/or software or other property of the party entitled to serve notice hereunder or if the other party is unable to pay its debts in accordance with the law relating to this Contract.

15.3 Within seven (7) days after the date of termination of this Contract for whatever reason, the Customer will return or destroy (as the Customer will instruct) hard-copy forms of the Website, bespoke software, Company's software, designs, graphics, and all audio-visual and hard copy material and data relating to the Website and business and purge/expunge all magnetic media forms of the Website and all software and related material and furnish the Customer with a certificate, certifying that the principal and all copies of such material made (in whole or in part), in any form of media have been so returned, destroyed and/or purged/expunged as the case may be or hereby permit the Customer's personnel or agents to collect, destroy or purge/expunge the same.

15.4 Termination of this Contract will be without prejudice to any accrued rights of either party and will not affect obligations which are expressed not to be affected.

16. Force Majeure

In the event of war, invasion, act of foreign enemy, hostilities (whether war has been declared or not) civil war, rebellion, revolution, insurrection, riot, civil disturbance, fire, flood, explosion, accident, theft, climatic conditions or shortage of material the Company shall be relieved of obligations incurred under the Contract with the Customer and to the extent of the fulfilment of such obligations are prevented, frustrated, impeded or delayed as a consequence of any such event or by any statute, rules, regulations, orders or requisitions issued by and Government, Council or other duly constituted authority or form strikes, lock outs, trade disputes (whether involving the Company's employees or other parties) or any other causes whether on not of a like nature, beyond the Company's control.

17. Cancellation of Order

Orders placed by the Customer are not subject to cancellation either wholly or in part except with the written consent of the Company. Such consent will usually be given upon terms that the Customer shall reimburse the Company for any loss expense and time spent occasioned by the cancellation.

18. Default of the Customer

If the Customer shall make default in or commit a breach of these Conditions or of any Contract with the Company, or if any distress or execution shall be levied upon the Customer's property or assets, or if the Customer shall make an offer to make any formal or informal arrangement or composition with creditors, or commit any act of bankruptcy, or if any petition or receiving order in bankruptcy shall be presented or made against the Customer or if the Customer is a limited company and any resolution or petition to wind up such company's business shall be passed or presented, or if a receiver of such company's undertaking, property or assets or any part thereof shall be appointed, the Company shall have the right without notice to the Customer and without prejudice to any other claims or rights the Company may make or exercise, to determine all or any of the Customer's orders which have not been fulfilled.

19. Waiver

Failure or neglect by the Company to enforce at any time any of the provisions hereof will not be construed nor will be deemed to be a waiver of the Company's rights hereunder nor in any way affect the validity of the whole or any part of this Contract nor prejudice the Company's rights to take subsequent action.

20. Assignment and Sub-Contracting

20.1 The Company may sub-contract part or all of the work under the Contract without however affecting its liability to the Customer to deliver the goods in accordance with the contract.

20.2 In the event of organisational change, the Customer may re-assign the Contract to an equivalent organisation or individual by prior written arrangement with the Company, except where payments are outstanding and the Company is of the reasonable belief that the substituted organisation is not financially solvent or credit-worthy, in which case the Customer will be required to settle all outstanding sums before re-assigning the Contract.

20.3 In the event of re-assignment of the Contract by the Customer, the substituted organisation or individual will assume the role of Customer, and will be bound by all relevant conditions as defined in this document.

21. Notices

Notice may be given by either party to the other by sending them to the registered office or last known business address of the addressee. Any such notice will be valid if sent by facsimile or post and will be deemed to have been received in the ordinary course of transmission or dispatch.

22. Severability

In the event that any of these terms, conditions or provisions or those of any schedule or attachment hereto will be determined by any competent authority to be invalid, unlawful or unenforceable to any extent such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

23. Proper Law

Every contract is subject to English Law. The Customer submits to the non-executive jurisdiction of the English Courts for the determination of any question or dispute, however arising, between the Company and the Customer.
