

These Terms and Conditions apply to the provision of all services by us, Whitestar Systems Ltd, a company registered in England and Wales under number 08229317, whose registered address is Glebe House Webbs Lane, 32 Overstone Road, Sywell, Northamptonshire, United Kingdom, NN6 0AW (“the Company”).

1. Definitions and Interpretation:

1.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“**Acceptance**” means the acceptance of our Quotation, the placement of an order and/or your written (or at our discretion, verbal) consent to receive the Services, which creates a legally binding Contract between you and us and includes the acceptance of these Terms and Conditions;

“**Client**” means you, the individual, firm or corporate body purchasing the Services;

“**Contract**” means the contract formed upon your Acceptance of our Quotation;

“**Quotation**” means the written quotation provided by us to you, which unless otherwise stated, remains open for acceptance for a period of 30 days and constitutes our entire scope of works; and

“**Services**” means the web design, web hosting and/or any other services provided by us to you.

“**Website**” means all websites and/or any other web based services to be provided.

Unless the context otherwise requires, each reference in these Terms and Conditions to:

1.1.1 “we”, “us”, “our” is a reference to the Company and includes our employees and agents;

1.1.2 “you” and “your” is a reference to the Client and includes your employees and agents;

1.1.3 “writing” and “written” includes emails and similar transmissions;

1.1.4 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

1.1.5 “these Terms and Conditions” is a reference to these Terms and Conditions as may be amended or supplemented at the relevant time;

1.1.6 a clause is a reference to a clause of these Terms and Conditions;

1.1.7 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.

1.2 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon their interpretation. Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender. References to persons shall include corporations.

1.3 No terms or conditions stipulated or referred to by you in any form whatsoever shall in any respect vary or add to these Terms and Conditions unless agreed by us in writing.

2. **Website Design:** The following clause shall apply to web design services only.

2.1 We will issue a formal Quotation for Acceptance once we have recommended and/or you have chosen the best option to suit your requirements. The Quotation will have options to delete or tick where appropriate.

2.2 We will have an initial meeting to complete so we can obtain a comprehensive brief before we start the design.

2.3 We will provide you with a design of the main Website pages, which must be signed off by you in writing before we commence building the site.

2.4 It is your responsibility to check for mistakes, including spelling mistakes, at all stages and we accept no responsibility for the same.

2.5 Any alterations required after approval of the design, any changes to the brief or any additional visits required above the allowance included for in the Quotation will be chargeable at our standard hourly rate applicable at the time.

2.6 We design our Websites using editable platforms such as Drupal. Once the Website goes live, unless on a start-up package we will provide you with a login to access your site. This will enable you to edit the text and images on certain pages. To prevent accidental erasure of important files and coding, we do not give access to development files or a login that provides access to all areas of the Website platform.

2.7 We reserve copyright in all works produced by us in accordance with clause 13.

3. **Website Hosting:** The following clause shall apply to Website hosting services only.

3.1 The Contract for any Website hosting will be automatically renewed, with the exception of the price, on the same terms and conditions as set out in this Contract on a rolling 30 days basis unless a written notice to terminate is given by either party in accordance with clauses 9.2 or 9.3 below. We will notify you of any such price increase in accordance with these terms and conditions.

3.2 We will use our best endeavours to ensure the Website hosting Services are uninterrupted, however, should interruptions occur due to unforeseen circumstances, we will refund the hosting fees on a pro rata basis for any period of downtime encountered during the month where this is caused by an error of ours. This shall be our sole liability and we shall accept no liability for any loss of profit or any consequential losses in accordance with clause 16.1.

3.3 In addition, we cannot be held responsible for events that occur outside our control, including, but not limited to, loss of data and hacking. You are responsible for keeping copies of what you put on the Website and we accept no liability for the same.

3.4 We shall not be liable for any server or other hosting site’s failure, or for any loss of profit, loss of business, interruption to business or for any loss of business opportunity due to such failure. It is your responsibility to maintain the security of your site and you must keep all passwords safe and only log in

to the Website from a secure computer connection. We accept no responsibility should this clause not be complied with.

3.5 If you wish to use another hosting provider, we will charge a set-up fee to transfer the test site to this provider before the Website goes live. We cannot be held liable for the actions or inactions of any other hosting provider.

4. Support Services

4.1 Our Services will be calculated based upon your entitlement to a set number of hours per month. We will maintain time records for hours spent on the Services and will send these to you on request. Our time is calculated in minimum units of 15 minutes for all work done and shall be rounded up to the nearest 15 minute interval.

4.2 If you fail to use all the hours for which we are contracted every 3 months, the hours will be lost. Should you require additional hours in any period, then all additional hours will be charged in addition.

4.3 You agree, where applicable, to:

4.3.1 report faults promptly to us, in any event within 24 hours of discovering the fault;

4.3.2 act in accordance with any and all reasonable instructions issued by us in relation to the Services; and

4.3.3 not allow any person other than us (or a person acting under our instruction) to interfere with, modify, repair, relocate or service the Website.

4.4 We may provide you with such information and advice in connection with the Services and the provision thereof as you may, from time to time, reasonably require. However, we accept no responsibility for any actions taken as a result of such advice or recommendations, nor shall we be liable for any consequences should our professional advice not be taken.

5. Fees and Payment

5.1 Website Design:

5.1.1 Our standard payment terms for Website design are 30% of the quoted fee is due upon acceptance of our Quotation. Orders shall not be deemed confirmed until the deposit is paid in full. This deposit is non-refundable. An interim payment of 30% shall be payable upon completion of the design, we shall not proceed to build unless this payment has been made in full. The final 40% of the quoted fee will be invoiced once the build is complete and has been provided to you. The Website will not be launched until we have received this payment.

5.1.2 However, we reserve the right to charge additional interim progress payments as the works progress. We also reserve the right to request 100% of the quoted fee up front at our sole discretion. In either event, we will notify you accordingly in advance.

5.1.3 Should any outstanding amounts not be received by the due date, we reserve the right to use login details to remove files which we have created from the server, which could cause partial or complete loss on the Website.

5.2 Website hosting and support Services:

5.2.1 Payment for our Website hosting Services is due on a monthly basis throughout the duration of the hosting Contract in accordance with 3.1.

5.2.2 Should payment not be received by the due date, or if automatic payments have been cancelled without the required notice, we reserve the right to shut down your site, and/or irretrievably delete your content from our servers.

5.3 All invoices are payable within 7 days from the date of invoice, unless otherwise specified.

5.4 You agree to pay for any additional services provided by us that are not specified in the Quotation. These additional services shall be charged in accordance with our current rate in effect at the time of the performance or such other rate as may be agreed.

5.5 All sums payable by either Party are exclusive of VAT if applicable or any other taxes on profit, for which that Party shall be additionally liable. All payments shall be made in pounds sterling without any set-off, withholding or deduction except such amount (if any) of tax as you are required to deduct or withhold by law.

5.6 The time of payment shall be of the essence. If you fail to make any payment by the due date then, without prejudice to any right which we may have under to any statutory provision in force from time to time, we shall have the right to suspend the Services and charge you interest at a rate of 8% per annum above the Bank of England base rate from time to time, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall be calculated on a daily basis and will accrue after as well as before any judgment.

6. Your Responsibilities

6.1 You agree, where applicable, to:

6.1.1 provide us with any information, advice and assistance as we may reasonably require within sufficient time to enable us to perform the Services;

6.1.2 provide us with suitable and sufficient material and images to enable us to perform the Services;

6.1.3 ensure all content uploaded by you or your employees, or provided to us, is suitably backed up and thoroughly proofread for mistakes;

6.1.4 ensure any staff are trained in the proper use and operation of any system provided by us;

6.1.5 virus-check all data & material supplied to us;

6.1.6 keep secure from third parties any passwords we may issue to you;

- 6.1.7 nominate a suitably qualified individual to act as your representative to liaise with us regarding the Services. This individual needs to be a decision-maker within the company; and
- 6.1.8 obtain and maintain all necessary licences, permissions and consents in connection with the Services.
- 6.2 If you fail to meet any of the provisions of this clause 6, without limiting our other rights or remedies, we shall:
- 6.2.1 have the right to suspend performance of the Services until you remedy the default;
- 6.2.2 not be held liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay in performing any of our obligations as a result; and
- 6.2.3 be entitled to claim for any costs or losses sustained or incurred by us arising directly or indirectly from your default.
- 7. Errors or Discrepancies:** You are responsible for the accuracy of any information submitted to us and for ensuring that the Quotation reflects your requirements. Our Quotation is based on the information provided to us at the time of preparing such Quotation. Should any errors or discrepancies become evident which affect the order value, we reserve the right to make adjustments to it.
- 8. Variation and Amendments**
- 8.1 If you wish to vary the Services to be provided, you must notify us as soon as possible. We will endeavour to make any required changes and any additional costs incurred by us as a result will be invoiced to you.
- 8.2 If, due to circumstances beyond our control, we have to make any change in the arrangements relating to the provision of the Services, we will notify you immediately. We will endeavour to keep such changes to a minimum and will seek to offer you arrangements as close to the original as is reasonably possible in the circumstances.
- 8.3 Any agreed variation or amendment will be carried out in accordance with these Terms and Conditions and any price increase required as a result of an agreed variation or amendment will be payable in accordance with the terms for payment above.
- 9. Cancellation and Termination**
- 9.1 Subject to clause 9.3, any one-off services as detailed in clause 2 cannot be cancelled after the Contract is formed. In the event of cancellation, you will be required to pay the total quoted fee, which shall become immediately due and payable. Upon receipt of payment, we will hand over all works completed by us up to the date of cancellation in relation to the Contract.
- 9.2 Either Party has the right to terminate the hosting Services detailed in clause 3 by the giving of 1 months' written notice after the initial 12 month-term, whereby there will be no continuing liability by either Party.
- 9.3 Either Party has the right to terminate the Services immediately if the other Party:
- 9.3.1 has committed a material breach of this Contract unless such breach is capable of remedy, in which case the right to terminate immediately will be exercisable if the other Party has failed to remedy the breach within 14 days after a written notice to do so; or
- 9.3.2 goes into bankruptcy or liquidation either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation) or if a receiver is appointed in respect of the whole or any part of its assets.
- 9.4 In the event of termination for your default, all payments required under this Contract shall become due and immediately payable.
- 9.5 Any and all obligations of the Parties which either expressly or by their nature continue beyond the termination, cancellation or expiration of this Contract shall survive termination under this clause 9 on a pro-rata basis.
- 10. Confidentiality:** Each Party undertakes that throughout the duration of the Contract, the Parties may disclose certain confidential information to each other. Both Parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under this Contract. Each Party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless authorised by the other Party in writing.
- 11. Data Protection**
- 11.1 Both parties agree to comply with all applicable data protection legislation including, but not limited to, the EU General Data Protection Regulation (2016/679) and any subsequent amendments thereto.
- 12. Literature and Representations:** Any marketing literature is presented in good faith as a guide to represent the services offered and does not form a part of the Contract. None of our employees or agents are authorised to make any representation concerning the services unless confirmed by us in writing. In entering into the Contract, you acknowledge that you do not rely on and waive any claim for breach of any such representations, which are not so confirmed.
- 13. Intellectual Property**
- 13.1 Subject to a written agreement to the contrary, we retain ownership in all intellectual property which may subsist in the provision of the Services. Nothing in the Contract shall vest any ownership rights in the Client.
- 13.2 Provided payment is made in accordance with the terms of payment above, we will grant you a non-exclusive license to use the intellectual property the subject of the Contract, only for the purposes for which we are engaged by you. The licence shall become effective once the Website goes live. You may not sub-licence the intellectual property rights without our prior written permission.
- 13.3 We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.
- 13.4 We reserve the right to use any design created by us in any advertising or promotional material, online, in publications, print, or for any other purpose required by us.
- 13.5 Any licence granted shall be automatically revoked if you breach any of these terms and conditions or if the Contract is terminated in accordance with clause 9.
- 13.6 The licence will apply only to the final design and will not extend to any draft concepts, images, designs or other material viewed by you. These cannot be used without our express permission. We reserve the right to reuse these designs at our discretion.
- 13.7 You warrant that any image, document or instruction given to us shall not cause us to infringe any advertising codes of conduct or any intellectual property or other legal rights, including any letter patent, registered design or trade mark, in the execution of our Services. You will indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in settlement of any claim for any such infringement, including infringement of stock photography copyright as specified in clause 13.7, which results from our use of any information supplied by you.
- 14. No employment:** Nothing in the Contract shall render or be deemed to render us an employee or agent of yours or you an employee or agent of ours.
- 15. Assignment and Sub-Contracting**
- 15.1 You shall not be entitled to assign the benefits under the Contract.
- 15.2 We may sub-contract the performance of any of our obligations under the Contract without your prior written consent. Where we are sub-contracting the performance of any of our obligations under the Contract to any person, we shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of our own.
- 16. Liability and Indemnity**
- 16.1 Except in respect of death or personal injury caused by our negligence, we will not be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our servants or agents or otherwise) in connection with the performance of our obligations under the Contract.
- 16.2 All warranties or conditions whether express or implied by law are expressly excluded to the full extent permitted by law.
- 16.3 In the event of a breach by us of our express obligations under these Terms and Conditions, your remedies will be limited to damages, which in any event, shall not exceed the fees and expenses paid by you for the Services.
- 17. Force Majeure:** Neither Party shall be liable for any failure or delay in performing their obligations under the Contract where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event beyond the control of the Party in question.
- 18. Waiver:** No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.
- 19. Severance:** The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and the Contract, as appropriate). The remainder of these Terms and Conditions shall be valid and enforceable.
- 20. Third Party Rights:** No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.
- 21. Notices:** Notices will be deemed to have been duly received and properly served 24 hours after an email is sent or three working days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that it was properly addressed to the address provided, stamped and placed in the post and in the case of an email, that it was sent to the specified email address of the addressee.
- 22. Law and Jurisdiction**
- 22.1 These Terms and Conditions and the relationship between you and us (whether contractual or otherwise) will be governed by, and construed in accordance with, the laws of England and Wales.
- 22.2 Any dispute, controversy, proceedings or claim between you and us relating to the Contract or these Terms and Conditions (whether contractual or otherwise) will be subject to the jurisdiction of the courts of England and Wales.