

PROJECT TITLE

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# The Legal Bit...

## CONTRACT PARTICULARS & CONDITIONS OF CONTRACT



## **CONDITIONS OF CONTRACT**

**PROJECT TITLE .....**

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## **CONTRACT PARTICULARS**

### **1.0 Contract For.....**

#### **1.1 The Parties.**

##### 1.1.1

Company Name.....  
(hereinafter referred to as “the Company”)

having its principal place of business at .....

and

1.1.2 Client Name.....  
(hereinafter referred to as “the Client”)

having its principal place of business at.....

#### **1.2 The Undertakings of the Parties.**

1.2.1 The Client requests that the Company undertakes certain services, described hereafter as the Work.

1.2.3 The Client undertakes to provide the Company with the following information before the Company commences the Work :

- 1.
  - 2.
- Etc.

1.2.4 The Client undertakes to provide the Company with the following information at the end of Phase 1 of the Work :

1. The Client’s approval or disapproval of Phase 1 Work in accordance with Clauses 5.3.3 and 5.3.4 of the Contract.
  - 2.
- Etc.

1.2.5 The Client undertakes to provide the Company with the following information at the completion of the whole of the Work :

1.2.6 The Client’s approval or disapproval of the Work in accordance with Clauses 5.3.3 & 5.3.4 of the Contract.

1.2.7 The Company agrees to undertake the Work in accordance with the Price and Programme of Work all as described hereafter.

1.2.8 The Client agrees to pay the Company for the execution of the Work in accordance with Section 4 of this Contract headed The Price.

## 2 The Work

### 2.1 Phase I.

*Include here an accurate description of Phase I Work*

### 2.2 Phase II

*Include here an accurate description of Phase II Work and any other phases as might be required.*

2.3 Additional Work will not be undertaken unless with the written instruction of the Client. Where additional Work is instructed verbally by the Client, the Company will confirm that instruction in writing. If the Client does not countermand such written confirmation forthwith, it will be considered as if it was an instruction from the Client.

### **3. Programme of Work.**

3.1 The agreed Commencement Date for the Work is.....

3.2 Provided the Client has provided all necessary information, in accordance with Clause 1.2.3 and paid the initial deposit as stated in Clause 4.2, Phase I Work will be undertaken and completed within ... weeks of the Commencement Date, resulting in a Phase 1 Completion Date of.....

3.3 Provided the Client has provided all necessary information, in accordance with Clause 1.2.3, Phase II Work will be undertaken and completed within ... weeks of the Client's approval of Phase I of the Work, resulting in a Phase II Completion Date of.....

3.4 Where the Client instructs additional Work, or where the Company confirms a verbal instruction from the Client, the effect of the additional Work on the Programme will be calculated by the Company and will be notified to the Client. If the Client disapproves any delay to the Completion Date in writing, the additional Work will not be undertaken, unless accelerative measures have been approved and agreed in writing. If the Client does not respond forthwith to a notification from the Company that additional Work will delay completion, then it will be deemed that the Client has approved such delay.

## 4. The Price.

4.1 The Company undertakes to carry out the whole of the Work, described as the Work for the sum of £.....

In words.....

*(Note –the price structure is typically only. The build up of the Price is infinitely variable and can change depending on the nature of the work)*

4.2 Initial deposit of ....% of the Price is payable to the Company upon the signing of the Contract

4.3 Any extra Work instructed by the Client which results in the expenditure of additional resource will be priced on its merits, but will generally be based on £50 per operative hour. Any further additional costs, such as software and materials will be priced at cost +20%.

### 4.4 Price Payable

All as stated in Clause 4.1, 4.2 & 4.3 of the Contract, when the Work is completed to the reasonable satisfaction of the Client, but subject to the terms of Clause 5.4.3 Approval of Work and Clause 5.4.4 Rejected Work hereof. The Price quoted in the Contract does not include the cost of domain registration, hosting set up fee or hosting.

### 4.5 Maintenance Fees

Maintenance, if required by the Client under the Contract, shall be on a month to month basis, with a minimum of £100 payable in any month where updating is necessary. Fees will be assessed on an hourly basis at £50 per hour or part thereof. No fee will be required in a month where no updating is necessary. Search engine re-submissions, other than the original submission included in the Price, shall be included in the maintenance fee.

### 4.6 Payment

Upon completion of 7 day review period, the Company will invoice the Client for any outstanding payment in accordance with Clause 4, the Price hereof, which, in the absence of agreement to the contrary, is to be paid by the Client within 21 days of the date that the invoice was issued.

### 4.7 Remedies for Overdue Payment

If payment has not been received by the due date, the Company has the right to suspend ongoing Work for the Client, until such time that full payment of the outstanding balance has been received. If full payment has still not been received 21 days after the due date, the Company has the right to replace modify or remove the Website and revoke the Client's licence of the Company

until full payment has been received. By revoking the Client's licence of the Company or removing the web site from the Internet, the Company does not remove the Client's obligation to pay any outstanding monies owing.



## 5. GENERAL CONDITIONS OF CONTRACT.

### 5.1 DEFINITION OF TERMS

5.1.1 DOMAIN NAME..... the root address of a website, e.g. www.webaddress.com. All such names must be registered with the appropriate naming authority, which will usually charge a fee.

5.1.2 DOWN TIME - time when the website is not accessible via the Internet. This may be because of a technical failure of the Host or because Work is being carried out on the site.

5.1.3 HOST - The company on whose system the Website physically resides.

5.1.4 LINK, HYPERLINK - a 'clickable' link embedded on a web page which may take the form of a graphic or text.

5.1.5 SEARCH ENGINE a website which contains a directory of websites on the Internet enabling users to find websites by subject matter classification.

5.1.6 WEBSITE - a collection of web pages and associated code which forms an integrated presence.

5.1.7 The Work - the subject matter of the Contract between the Client and the Company, all as defined in Clause 2 of this Contract.

## 5.2 DISCLAIMERS

### 5.2.1 Third Parties

The Company can take no responsibility for services provided by third parties through us or otherwise, including the Hosting of the Client's Website, although the Company will endeavour to ensure that Website downtime is kept to a minimum.

### 5.2.2 Maintenance and Correction of Errors

The Company takes no responsibility for the functionality or maintenance (unless a maintenance contract is in place) of the Website after the Work has been completed. Errors (both technical and typographical) attributable to the Company will be corrected free of charge, but the Company reserves the right to charge a reasonable fee for correction of errors for which the Company is not responsible, including, but not limited to malicious modification of the Website by a third party and typographical errors contained in materials provided to the Company by the Client.

### 5.2.3 Extent of Work

Installation on the Internet is limited to the uploading of all necessary files to the Host, and testing of functionality. No registration of the Website with Search Engines will be undertaken unless otherwise agreed with the Client.

### 5.2.4 Consequential Loss

Under no circumstances will the Company be responsible or liable for financial or other loss or damage caused by the failure or use or misuse of its software. The Client should ensure that data on their site is regularly backed up and that a contingency plan is in place to minimize possible losses as a result of software failure.

### 5.2.5 Status and Duration of Offers

Proposals and offers are valid for a period of one month from the date issued. The Company is not bound to honour offers that have expired. Offers are not legally binding until an acceptable timetable for the Work has been agreed by both parties. This timetable must be agreed within the month that the offer is valid. If an acceptable timetable has not been approved by both parties within one month of the offer being made, the offer is deemed to have expired.

### 5.2.6 Search Engine Listings

The Company does not guarantee listings on Search Engines and the Client accepts that it is Search Engines and not the Company who determine whom they list and whom they will not.

The Client further understands there is no guaranteed placement or rank on the Search Engines and that a new website may never appear on Search Engines. The Company does not control Search Engines' algorithms and huge shifts can appear daily, weekly and even hourly.

## **5.3 COMPLETION OF WORK AND PAYMENT**

### **5.3.1 Completion of Work**

The Company warrants completing the Work in accordance with the Work, the Programme of Works and the Price as defined in the Contract and as agreed with the Client. The Company will execute the Work in accordance with the Price unless the Client has varied the specifications, or Scope of the Work , or the Programme of Work since the agreement. The Company will not undertake changes to the specifications, or scope of the Work, or Programme of Work which would increase the cost, without prior written authorisation from the Client, or confirmation by the Company in accordance with Clause 2.3 of the Contract.

### **5.3.2 Supply of Materials**

The Client is to supply all materials and information required for the Company to complete the Work in accordance with the agreed specification and scope of Work. Such materials may include, but are not limited to, photographs, written-copy, logos and other printed materials. Where the Client's failure to supply such materials leads to a delay in completion of the Work, the Company has the right to extend previously agreed deadlines for the completion of the Work by a reasonable amount. Where the Client's failure to supply materials prevents progress on the Work for more than 21 days, the Company has the right to invoice the Client for any part or parts of the Work already completed.

### **5.3.3 Approval of the Work**

On completion of the Work, the Client will be notified and have the opportunity to review it, the Client should notify the Company, in writing, of any unsatisfactory points within 7 days of receipt of such notification. Any of the Work which has not been reported in writing to the Company as unsatisfactory within the 7 day review period will be deemed to have been approved. Once approved, or deemed approved, the Work cannot subsequently be rejected, and the Contract will be deemed to have been completed and the outstanding payment under Clause 4 the Price, will become due. The Contract will remain in effect until all obligations have been completed in terms of this Clause.

### **5.3.4 Rejected Work**

If the Client rejects the Work within the 7 day review period, the Company will endeavour to remedy, where possible, any points reported by the Client as unsatisfactory. If the Client will not approve subsequent Work performed by the Company to remedy any points reported by the Client as unsatisfactory, and the Company considers that the Client is unreasonable in his repeated rejection of the Work, the Contract will be deemed to have expired and the Company can take any legal measures to recover both payment for the completed Work and reasonable expenses incurred in recovering payment.

## **5.4 INTELLECTUAL PROPERTY**

### **5.4.1 Offers and Proposals**

Offers and proposals made by the Company to potential clients should be treated as trade secrets and remain the property of the Company. Such offers and proposals or the information contained within them must not be passed to third parties or publicly disseminated without prior written authorization from the Company. This includes, but is not limited to, technical features, functionality, aspects of the design and pricing information.

### **5.4.2 Warranty by the Client as to Ownership of Intellectual Property Rights**

The Client will obtain all the necessary permissions and authorities in respect of the use of all copy, graphic images, registered company logos, names and trademarks or any other material it supplies to the Company for inclusion on the Website. The signing of a contract between the Company and the Client shall be regarded as a guarantee by the Client to the Company that all such permissions and authorities have been obtained and that the inclusion of such material on the Website would not constitute a criminal offence or civil delict. By agreeing to these terms and conditions, the Client removes the legal responsibility of the Company and indemnifies the same from any claims or legal actions however related to the content of the Client's site.

### **5.4.3 Domain Name**

Any Domain Name obtained will belong to the Client. The Client agrees to indemnify the Company, including any incidental costs, against any claims that a Domain Name applied for, or obtained, violates the intellectual property rights of a third party. The Client warrants that the domain name sought is not a trademark of a third party.

### **5.4.4 Licensing**

Once the Company has received full payment of all outstanding invoices and the Company has been approved by the Client in accordance with Clause 8.3 hereof, the Client will be granted a licence, by the Company to use the Website and its contents.

### **5.4.5 Trade Secrets**

Any code that is not freely accessible to third parties and not in the public domain, and to which the Company or their suppliers owns the copyright, may not be copied, published, distributed or passed to any third parties in any form without prior written consent from the Company. Unless previously agreed otherwise in writing, no modifications may be made by the Client or any third party to code to which the Company or their suppliers owns the copyright. The Company acknowledges the intellectual property rights of the Client. Information passed in written form to the Company, and that the Client has

indicated is confidential or a trade secret, will not be published or made available in any other way to third parties without the prior written consent of the Client.

**5.5 RIGHTS AND RESPONSIBILITIES**

5.5.1 Right to Terminate

The Company reserves the right to refuse or break a contract without prior notice, if it is believed that the Client, their Website, or any material is illegal, immoral or otherwise unacceptable.

5.5.2 Events Beyond the Control of the Company

The Company will not be liable for breach of contract where that breach was due to software, hardware or electrical failure, natural events such as fire or other events beyond the control of the Company

5.5.3 Supply and Pricing of Services

The Company reserves the right to use whatever third party software and services as are appropriate to achieve aims of the Company. Any such changes will be the subject of agreement between the Client and the Company in accordance with these Conditions of Contract.

**5.6 INTERPRETATION**

5.6.1 Jurisdiction

This Agreement shall be governed by the laws of the United Kingdom which shall claim venue and jurisdiction for any legal action or claim arising from the contract between the Company and the Client. The said contract is void where prohibited by law.

5.6.2 Survival of Contract

Where one or more terms of the said contract are held to be void or unenforceable for whatever reason, any other terms of the contract not so held will remain valid and enforceable at law.

**6.0 AGREEMENT OF THE PARTIES**

This agreement signed on behalf of the Company

.....

Date:.....

This agreement signed on behalf of the Client

.....

Date:.....