



**These terms and conditions regulate the business relationship between you and us. By using Our Web Site in any way, or by buying from us, you agree to be bound by them. If you do not accept this, please leave our web site now.**

**No person under the age of 18 years may purchase goods and services. We look forward to seeing you again when you are over 18.**

We are: d2 Digital By Design Limited

VAT Registration number: 572 2214 64

Our address is: Rhodesia House  
52 Princess Street  
Manchester  
M1 6JX

Our e-mail address is: [info@d2digital.co.uk](mailto:info@d2digital.co.uk)

You are: Anyone who pays us for our services.



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VAT REG 572 2214 64  
C REG 3618855



## The Terms and Conditions

### 1 Basis of Contract

You warrant that you buy our services as a business and not as a consumer.

- 1.1 Subject to the terms set out in this document we agree to provide to you some or all of the products and services described on our Web site (together referred to as “the Services”) at the prices we charge from time to time, such prices also being stated on our Web site. We now refer to the prices of the Services we sell to you as the “Price” and the contract between us as “the Contract”.
- 1.2 You acknowledge that we may charge you at hourly rates (the “Hourly Rates”) and you will pay us, for all work not included in the main contract. The rates will vary between categories or work. The Hourly Rates will be specified in writing, by fax or via email “In Writing” for each individual contract.
- 1.3 A conditional contract between us comes into existence when we receive payment from you into our bank account for a product or service described on our Web site, or at such later date as we agree the terms of our service. The condition is our acceptance of the contract.
- 1.4 If within 7 days of our receipt of your payment, we do not notify you by e-mail or post that we have not accepted your contact, then the Contract becomes absolute.
- 1.5 Services relating to web hosting are subject to the additional terms set out in the web hosting terms and conditions document.

### 2 Identification of the Services

You acknowledge that:

- 2.1 you understand exactly what is included in the Services;
- 2.2 you are satisfied that the Services are suitable and satisfactory for your





requirements;

- 2.3 in entering into the Contract you have not relied on any representation or information from any source except the definition and explanation of the Price and the Services given In Writing.

### 3 Timing arrangements

- 3.1 Except where specified otherwise, time shall not be of the essence of this contract. Time periods specified are to be those within which we and you will use our best endeavours to comply.
- 3.2 Where you fail to act within a specified time period, we may interpret your silence as acceptance.
- 3.3 Any estimate of timing given to you by us either in these terms or by other means is based on our calculation of time to be spent by us alone and does not include any time spent by you.

### 4 Design approval procedure

- 4.1 You will present to us a draft detailed specification (the "Detailed Specification") of the user requirements and functional requirements for your proposed web site or part thereof ("Web Site"). The following items or explanations will be included:
- 4.1.1 explanation of purpose of the Web Site;
  - 4.1.2 your functional requirements for the Web Site;
  - 4.1.3 your quantitative requirements for the Web Site;
  - 4.1.4 a specification of your preferred site design and style;
  - 4.1.5 alternative routes a visitor may take through the web site;
  - 4.1.6 an outline of the navigation you require;
  - 4.1.7 a list of principal pages, that is, pages a visitor might choose to visit;
  - 4.1.8 your chosen keywords for each main page;
  - 4.1.9 textual content of each main page;
  - 4.1.10 whether password protection is required and if so, to which pages;
  - 4.1.11 a content specification for any database, including fields, qualifications and reports;
  - 4.1.12 specification for any control panel required;
  - 4.1.13 a list of browsers with which the web site will be compatible;
  - 4.1.14 the name of a web site host (the "Web Site Host"), with whom you





have made arrangements to host the Web Site;

- 4.2 Within seven days, we will respond with questions and advice.
- 4.3 Within seven days of your reply we will present to you an updated Detailed Specification together with preliminary design concepts for your consideration.
- 4.4 Within seven days of your receipt of the Detailed Specification, you may terminate this contract by immediate notice in writing, whereupon payment will be due us at the rates set out in our web site for work to that point. Time is of the essence of this provision.
- 4.5 If not terminated within seven days, the contract shall continue fully effective.
- 4.6 If you terminate the contract:
  - 4.6.1 the intellectual property rights in all work done by us remain our property and you may not use any part of our work.
  - 4.6.2 All terms of this agreement relating to confidentiality continue to apply to both of us.

## 5 Contract procedure after design approval

- 5.1 Within seven days of receipt of the Detailed Specification you will notify us of either:  
your approval as drawn or  
your comments and/or requests for amendment.  
If you fails to respond within that period he shall be deemed to have approved the Detailed Specification.
- 5.2 We will take account of all reasonable comments and/or requests for amendment received from you and shall incorporate them in a revised version of the Detailed Specification to be prepared and delivered to you as soon as is reasonably possible.
- 5.3 You will pay us at the Hourly Rates for all amendments immediately we send you an invoice by post or e-mail.
- 5.4 If you require an amendment to the Detailed Specification to take account of any application function or performance criteria not previously specified then we will be entitled to make such revision to the timetable and the completion date as he shall in the circumstances reasonably judge necessary.





## 6 Web Site writing and delivery

- 6.1 We will write the Web Site upon the basis of and in compliance with the Detailed Specification within the time period specified in our web site.
- 6.2 You will complete arrangements in respect of such of the Excluded Matters as may be necessary to satisfy the requirements of the Contract.

## 7 Text modifications

- 7.1 We will notify you when the Web Site is substantially complete as to the text on the pages (even if the dynamic features are not yet complete) and shall provide open access (uncontrolled by any password or qualification) to you to all of the pages including error message and other secondary pages
- 7.2 You will provide to us a comprehensive list of text, style and other modifications in respect of all the pages.
- 7.3 We will make the modifications requested and will charge you at the Hourly Rates.

## 8 Testing and acceptance

- 8.1 The testing shall take place either on a test site or a site published to the World.
- 8.2 We will test the Software as a web site.
- 8.3 If any fault or “bug” is found we will undertake such further work as is necessary until the testing procedure is satisfied as to 100%.
- 8.4 When the test procedure is completed with 100% compliance, we will inform you and you may test the Web Site.
- 8.5 Within seven days, you will inform us of any deficiencies in the operation of the Web Site and in the absence of any such notification, you are deemed to have accepted the Web Site.
- 8.6 The Contract is complete after:





- 8.6.1 the testing procedure has demonstrated 100% efficiency
- 8.6.2 the Web Site is published on the server of the Web Site Host.

## 9 Hourly Rates

- 9.1 We will during the currency of this agreement maintain accurate and up-to-date records of the time spent by our staff upon the Contract, both in respect of work charged by the hour and work charged against a fixed price. Time shall be recorded in 15 minute units rounding to the nearest unit.
- 9.2 Each invoice submitted to you for time charged at Hourly Rates shall contain a breakdown in respect of the time spent by our staff and the materials and equipment used and the amounts attributable to each.
- 9.3 We reserve the right to charge you interest in respect of the late payment of any sums due under this agreement (both before and after judgment) at the rate of 5 per cent above the base rate from time to time of the Bank of England from the due date until receipt of payment.
- 9.4 When you order work to be paid at Hourly Rates, we will provide an estimate of the cost of such work. You agree to pay us the estimated sum immediately. We do not have to continue with any work on the Contract until we have received the estimated sum into our bank account.
- 9.5 If we choose to give you credit, you agree to pay our invoice for work done within thirty days.

## 10 Exclusions from contract

The Excluded Matters are:

Registration of necessary domain names  
Arrangement of merchant server banking facilities  
Contracting for web hosting services and the provision of appropriate firewalls.  
Supply new or change existing Customer e-mail message system  
Purchase of any necessary computer hardware and software  
Search engine optimisation.





## 11 Confidentiality

- 11.1 We are both aware that in the course of the Contract we will each have access to and be entrusted with information in respect of the business and operation of the other and our dealings, transactions and affairs, all of which information is or may be confidential.
- 11.2 Both you and we hereby undertake for ourselves and every employee or sub-contractor whose services we may use both during and after completion of the Contract that we will not divulge to any person whatever or otherwise make use of (and shall use their best endeavours to prevent the publication or disclosure of) any trade secret or confidential information of the other of us.
- 11.3 For the purposes of your above undertaking, the information shall be deemed to include all information (written or oral) concerning the Detailed Specification.
- 11.4 Both we and you hereby undertake to the other to make all relevant employees agents and sub-contractors aware of the confidentiality of information and the provisions of this paragraph and to take all such steps as shall from time to time be necessary to ensure compliance by its employees agents and sub-contractors with these provisions.

## 12 Third party software rights

If we incorporate or embed third party software products in the Web Site then such products will so far as possible be properly licensed to you or to us in accordance with the conditions of sale of the seller of them. We give no warranty in respect of any such products beyond the warranty given to us and subject to the seller's conditions.

## 13 Intellectual property rights

Software code and graphic images owned by a third party are not affected by this agreement. During and after completion of the contract and unless otherwise specified in this agreement ownership of intellectual property shall be as follows:





- 13.1 Web Site concepts, designs and images introduced by you in your requirements document, belong to you.
- 13.2 Web Site concepts, designs and images introduced by us, belong to us.
- 13.4 Software code and components written by us prior to the date of this agreement and incorporated in the Web Site belong to us.
- 13.5 Code written specifically for the Web Site belongs to us.

#### **14 Intellectual property rights indemnity by Customer**

- 14.1 You hereby agree to indemnify us against all claims and costs arising:
  - 14.1.1 in connection with the Content supplied by you, whether for breach of intellectual property rights defamation or otherwise
  - 14.1.2 out of your failure to comply with any law or statutory instrument.

#### **15 Limitation of liability**

- 15.1 The following provisions set out our entire liability (including any liability for the acts and omissions of our employees) to you in respect of:
  - 15.1.1 any breach of its contractual obligations arising under this agreement; and
  - 15.1.2 any representation statement or tortious act or omission including negligence arising under or in connection with this agreement.
- 15.2 Our liability is limited to a sum equal to the value of the Contract, including all work charged at the Hourly Rates.
- 15.3 We will not be liable to you in respect of any loss of profits, goodwill or any type of special indirect or consequential loss (including loss or damage suffered by you as a result of an action brought by a third party) even if such loss was reasonably foreseeable or we had been advised of the possibility of you incurring the same.





- 15.4 We will have no liability to you in respect of any event unless you have served notice of it on us within one year of the date you became aware of the circumstances giving rise to it or the date when you ought reasonably to have become so aware.
- 15.5 Nothing in this paragraph shall confer any right or remedy upon you to which he would not otherwise be legally entitled.
- 15.6 We will not be liable to you for loss arising from or in connection with any representations agreements statements or undertakings made prior to the date of this agreement.

## 16 Termination

This agreement may be terminated immediately by us if you fail to pay any sum due within 30 days of the date of submission of an invoice;

## 17 Force majeure

- 17.1 Neither party shall be liable for any breach of its obligations resulting from causes beyond its reasonable control including strikes of its own employees.
- 17.2 Each of the parties agrees to give notice immediately to the other upon becoming aware of an event of force majeure such notice to contain details of the circumstances giving rise to it.
- 17.3 If a default due to force majeure shall continue for more than 6 weeks then the party not in default shall be entitled to terminate this agreement. Neither party shall have any liability to the other in respect of the termination of this agreement as a result of force majeure.

## 18 Successors to the agreement

- 18.1 The benefit and obligations of this agreement shall be binding on any successor in title.
- 18.2 Neither party shall be entitled to assign this agreement nor all or any of their





rights and obligations hereunder without the prior written consent of the other.

## 19 Notices

Any notice to be served on either of the parties by the other shall be sent by first class post or pre paid recorded delivery or by e-mail and shall be deemed to have been received by the addressee within 72 hours of posting or 24 hours if sent by e-mail to the correct address.

## 20 Headings

The headings in this document are for reference only.

## 21 Dispute Resolution

In the event of a dispute arising out of or in connection with this Contract and which has not been resolved following discussions and negotiations between a person or persons appointed or authorised by you and us then they undertake to attempt to settle the dispute by engaging in good faith with the other in a process of mediation before commencing arbitration or litigation.

## 22 Waiver

The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Contract.

## 23 Jurisdiction

This Contract shall be interpreted according to the laws of England.



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