

# Terms & Conditions

Clear means Clear Design Consultancy Limited, company number 4402386, of 5 Town Walls, Shrewsbury, SY1 1TW and includes where appropriate Clear employees, agents and sub-contractors.

These Terms apply to the supply of services and products by Clear, unless otherwise agreed in writing.

## 1. Definitions

In these terms, unless the context otherwise requires, the following definitions will apply:

'Client' means the person, firm or company to whom an estimate or proposal is addressed to or by or on behalf of whom an order is placed.

'Media' means the carrier media specified in the Proposal on which the Artwork, Software or Digital Media is recorded or printed and delivered to the Client.

'Quotation' means the quotation provided by Clear.

'Proposal' means the document which requires a client signature and specifies details of the contract.

'Software' means the computer program(s) in object code form only as described briefly in the Proposal including any copies but excluding source code material and all preparatory design material.

'Artwork' means the digital file containing the origination information required for printing.

'Digital Media' means website, intranet, extranet, digital brochures comprising all pages including graphics, audiovisual effects, software, coding and any other material to be developed by Clear pursuant to the Client's requirement.

'Go Live' means the date by which the product or service is required as set out in the Proposal or otherwise agreed.

## 2. Extent of permitted reproduction and rights

- 2.1 The Client is permitted to make a back-up copy of Artwork, Software or Digital Media. Such copy will be the property of Clear until full payment is made for the Artwork, Software or Digital Media.
- 2.2 The Client shall maintain adequate security measures to safeguard the Artwork, Software or Digital Media from unauthorised access use or copying.

## 3. Payments

- 3.1 The Client will pay to Clear all fees and charges which fall due in the amounts and dates specified in the Quotation or otherwise invoiced by Clear. Where applicable, VAT and any other tax duties or levies will be paid additionally by the Client at the then prevailing rate.

3.2 All sums due under these terms will be paid by the Client before or on the due date of invoice.

3.3 Where a deposit is paid Clear will reserve the right to retain all or part of the amount paid unless otherwise agreed.

3.4 Any fixed price contained in the agreement excludes VAT, which Clear shall add to its invoices at the appropriate rate.

3.5 If any sum payable to Clear is in arrears for more than 90 days from invoice date, Clear reserves the right to charge interest on a daily basis from the original due date until paid in full at a rate of 3% above Lloyds TSB plc base lending at the relevant time.

## **4. Defects warranty**

4.1 Clear will not be liable for any failure of the Artwork, Software or Digital Media to provide any facility or function not described in the Proposal.

4.2 Clear provides no warranty on printed material, exhibition or display graphics in relation to longevity.

## **5. Delivery and installation**

5.1 Clear will use its reasonable endeavours to achieve delivery, installation or go live by any specified or requested date but each such date is to be treated as an estimate.

5.2 Risk in the Media will pass to the Client on delivery.

## **6. Limitation of liability**

6.1 Clear accepts no liability for loss or damage (direct, indirect or consequential) including all loss of profit or business arising out of any single claim, event, or series of related claims or events (including claims based on negligence).

## **7. Client's information**

7.1 The Client warrants that the name, address and payment information it has provided to Clear is correct and it agrees to notify Clear of any changes in such details.

7.2 The Client warrants the accuracy truthfulness and reliability of the information (including statements of opinion or advice) which it places within its printed items or on its website. The Client is solely responsible for the accuracy of files provided to Clear. Clear takes all reasonable steps to ensure the Client has an opportunity to make changes prior to the final print or website go live.

7.3 The Client will indemnify Clear for its reasonable costs and all damages awarded under any final judgment by a court of competent jurisdiction or agreed by Clear in final settlement to the extent any material provided by the Client and used by Clear.

## 8. Domain names

- 8.1 Clear will not accept any liability for actions taken in relation to domain name disputes and the Client hereby indemnifies Clear for any legal or other costs.
- 8.2 The Client is responsible for the renewal of domain names. Clear may automatically renew domains unless 3 months written notice has been given prior to the renewal date.

## 9. Use of website and hosting services

- 9.1 The Client is solely responsible for the contents of its website.
- 9.2 The Client's website is subject to withdrawal without notice at the discretion of Clear in order to prevent damage to Clear's system or reputation or otherwise for security. Only applicable for shared hosting environments.
- 9.3 The Client agrees to keep secure any access information, passwords and accounts supplied by Clear and is responsible for their use. The Client must advise Clear immediately if its password is stolen or lost.
- 9.4 The Client may not, under any circumstances, use its website to publish content which is illegal, unlawful or pornographic. It is the Client's responsibility to ensure that documents or other materials made available through the Website are not protected by intellectual property laws or rights of privacy.
- 9.5 The Client agrees to indemnify Clear from and against any and all liabilities, expenses (including legal fees) and damages arising out of claims based upon or relating to the use of the Client's website, including any claim of libel, defamation, violation of rights of privacy or publicity, loss of service, non-supply, fraud, infringement of intellectual property or other rights.
- 9.6 Clear reserves the right of root access on the system whilst Clear manages the hosting of the website. Should the Client find or suspect that there has been a breach of network access then it should inform Clear immediately.
- 9.7 For shared hosting, the Client will be required to provide 1 months notice in writing if hosting services are no longer required. For dedicated servers, the notice period will vary depending on provider and your specific contract. Transfer of domain names will incur a fee of £30 per domain and the Client will supply written confirmation on the Client's headed paper to Clear.
- 9.8 Clear is not responsible for any losses resulting from fraudulent activity in relation to transactions being made on the Client's website. It is the responsibility of the Client to ensure that transactions are completed prior to dispatch of any goods ordered through the Client's website.
- 9.9 Clear's Content Management System software is the property of Clear. Therefore, websites built using Clear's Content Management System must be hosted by Clear to protect the confidential nature of the software.

## 10. Email hosting and services

- 10.1 Clear will under no circumstances monitor the content of any client email routed via Clear or systems

hosted by Clear, save under authority of law or court order. Email is entirely the responsibility of the Client and the Client is responsible for sending email in accordance with any relevant legislation (including data protection legislation). Clear will take reasonable steps to ensure accurate and prompt routing of email messages but will not accept any liability for non-receipt or misrouting. Clear will not accept responsibility for losses or data or other information due to hardware failures. Back up of the Client's email is entirely the responsibility of the Client.

10.2 It is the responsibility of the Client to ensure that any list of email addresses or data supplied to Clear has been legally obtained and permission has been given to the Client to allow them to email such addresses. The Client agrees to indemnify Clear from and against any and all liabilities, expenses (including legal fees) and damages arising out of claims where Clear has distributed content to email addresses supplied by the Client.

## **11. Support & Digital Marketing retainers**

11.1 Retainer payments are monthly in advance. Our terms are 30 days. All of our prices are subject to VAT. Note that in the event of non-payment, we reserve the right to stop work until the account is brought up to date.

11.2. Retainer prices are reviewed every April. We'll give you as much notice as possible of any price increases.

11.3 Cancellation is three months in advance i.e. if you wish to cancel at the end of your six-month contract, please tell us before month four begins. After the initial contract, we will switch to a rolling contract with the same three-month cancellation period.

## **12. Advertising**

12.1 It is the responsibility of the Client to ensure that any statements made with advertising are correct and accurate and do not infringe upon intellectual property or other rights.

12.2 Clear will not accept liability for the reproduction of printed artwork once supplied to publications.

12.3 The Client agrees to indemnify Clear from and against any and all liabilities, expenses (including legal fees) and damages arising out of claims based upon information displayed within advertising.

## **13. Termination**

13.1 If the Client fails to comply with any of the provisions of these terms and does not rectify such non-compliance within 14 working days of Clear's written notice of it, Clear will take action to terminate the contract. All source code will be passed to the client, subject to any outstanding invoices being paid.

13.2 Clear may in any event of the Client becoming bankrupt, insolvent or enters into administration terminate these terms at any time providing written notice to the Client.

## **14. Changes to terms and conditions**

14.1 We reserve the right to make changes to these terms and conditions from time to time. 60 days notice will be given for changes to the terms and conditions.

## **15. Governing law**

15.1 These terms will be construed in accordance with and governed by the law of England and Wales.