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i3MEDIA Ltd - Terms of Business

If there is any term or condition that prevents you from dealing with us, we will look at these, and if reasonable, will confirm in writing its exclusion or modification as part of our agreement.

The following terms and conditions apply to all web site design and associated services offered by i3MEDIA. By ordering services from i3MEDIA you are agreeing to the following terms and conditions.

Ethical Issues

We reserve the right to refuse to provide services for a website or associated services which does not accord with our ethical policy or that we judge to be unfit due to content or otherwise. This includes, but is not limited by, sites containing adult oriented material such as pornography, sites which promote hatred towards persons belonging to any ethnic group, religion or sexual orientation and sites which infringe copyright or are contrary to UK or other relevant national or local laws or regulations.

Contract Commencement

The contract between i3MEDIA and the client shall consist of the quotation with its specifications and these terms and conditions.

It may not be necessary to have a signature for the contract to commence, verbal communication, email communication or other exchange making it clear that the work specified is required to be carried out shall constitute commencement of the contract and a contractual agreement between the client and i3MEDIA shall exist based on the quotation with its specifications and these terms and conditions.

i3MEDIA cannot always guarantee to start work immediately on a commission but will arrange a date with the client as to when work can commence. An anticipated finishing date will be agreed and i3MEDIA will do its best to adhere to that but cannot guarantee to do so in the light of circumstances outside its control.

In the instance that a time scale has been agreed, i3MEDIA will not be responsible for any consequential losses to the client if the deadline is not met.

i3MEDIA will take all relevant action within its power to remedy and reduce any losses incurred by trying to speed up delivery.

Design Standards, Web Standards, Accessibility

i3MEDIA makes every effort to design pages to current web standards and thus display well in the most popular current browsers, but cannot accept responsibility for pages which do not display acceptably in new versions of non-web standard browsers.

The website will adhere to the requirements of the W3C standards and will be written in valid code which passes the validation process of the W3C validator. Depending on the solution you request.

One version of the website will be created that will display well in all web-standard browsers and at all usual display resolutions.

The website will be acceptable to screen readers (used by those with visual impairments) and will adhere to guidelines for accessibility.

Email Newsletters and Marketing

Where i3MEDIA provides services relating to management of email newsletters and other email marketing, payment is usually by quarterly fees paid in advance and is reviewed and renewable annually.

Where i3MEDIA provides email newsletter services we shall adhere to the legal requirements - particularly to the Privacy and Electronic Communications (EC Directive) Regulations 2003 - to the best of our ability and shall not condone or support any activity associated with indiscriminate spamming of email addresses.

Development Process

i3MEDIA will provide a draft of the design on its own server during development so that the client may view and comment upon the progress. When the website meets the specifications set out in the quotation with its specifications, i3MEDIA will invoice the client for the full amount due.

On receipt of payment, i3MEDIA will publish the website on the client's server, or provide the source code for the site via a download (or CD-ROM disc) for the client to upload.

In an instance where a time scale has been agreed, i3MEDIA will not be responsible for any consequential losses to the client if the deadline is not met.

i3MEDIA will take all relevant action within its power to remedy and reduce any losses incurred by trying to speed up delivery.

i3MEDIA uses its best endeavours to ensure the website and other services remain functional at all time. However, i3MEDIA cannot guarantee or warrant that the functions and content of the website or other services will be uninterrupted or error-free. Any problems will be dealt with as speedily as is appropriate to the content and function of the website and may be chargeable at our normal rate during working hours and at double that rate outside normal working hours.

Once the website and other services meet the terms of the quotation with its specifications any modifications to the design will be considered an amendment to the contract. In the absence of maintenance agreements, the time and costs involved in making such changes will be charged to the client.

In the absence of a maintenance agreement, i3MEDIA will fix all errors notified to i3MEDIA in writing within thirty days of the site being put live on the Internet. If errors are reported after more than thirty days, the time and costs involved in making such changes will be charged to the client.

If, however bugs are found which, have neither been picked up by i3MEDIA or the client post-delivery, the client has a 6-month period to have these remedied from date of launch.

Errors: Defined as spelling mistakes, or design related issues.

Bugs: Defined to be Technical issues with the site performing to specification.
I.e. a form field is not validating properly.

Bugs found within the delivered solution can be reported directly through to you account manager and will be resolved in order of urgency.

Urgent bugs – where a site is not operations, payments cannot be taken, users cannot signup – treated and dealt with immediately.

Non-Urgent Requests – Items such as new banner positions, reporting extension, content training etc.

Supply of Content by the Client

The client undertakes to inform us prior to commencement of the project if there is a critical requirement to meet specific performance criteria.

If, during the development, the client does not supply the content required in order to complete the commission within the anticipated time frame, i3MEDIA will invoice up to the full amount quoted. When the content is supplied there may be additional time costs involved due to the overrun of the project which impinges on the ability of i3MEDIA to service other clients.

Advice and Consultancy

Any advice given in respect of software, hardware, programming, design, purchasing, hosting, training, upgrading, installing or any other advice, suggestion, recommendation or otherwise of any product or service provided by us or by a third party, whether introduced by us directly or indirectly is accepted by you as an opinion and as such you agree that prior to acting on any of the aforementioned that you will first obtain professional advice. You further agree to indemnify us of all liability with regard to any decision or action performed by you that may or may not be a direct or indirect result of any contact or dealing with us.

Our consultancy service and general advice is, by its nature, subjective. It is up to you whether you decide to follow our ideas and suggestions. It is not possible and we do not guarantee that any of those ideas and suggestions will increase traffic to your site, improve your ratings with search engines or boost sales.

Training

Endeavour to provide appropriate training as agreed and on terms agreed. The outcomes of training personnel in whatever activities agreed are not readily quantifiable and as such we cannot accept liability for any training we provide not meeting the client's or the trainee's expectations.

Right to Assign

This Agreement is personal to you and you may not assign it without our prior express written consent. Should you transfer ownership of the website as part of a transfer of ownership of a business then the new owners will need to come to a new agreement with i3MEDIA.

Testimonial, Reference and Links

i3MEDIA and its sub-contractors retain the right to display graphics and other Web design elements as examples of their work in their respective portfolios.

i3MEDIA and its subcontractors retain the right to refer other prospective clients to your website as testimonial or reference material.

i3MEDIA reserves the right to a reasonable credit on the website with a hyperlink to its own website. This would normally be on a contact page or somewhere accessible but not obtrusive.

Search Engine Submission and Results

i3MEDIA will submit a client's website to the major search engines. Further work based on keyword popularity analysis, search engine optimisation based specifically around your organisation and its 'competition' is best carried out by specialist contractors. This can be arranged but is not part of the contract unless specifically included in the quotation. Any subsequent amendments to the website as a result of professional analysis may be charged to the client.

i3MEDIA can accept no responsibility or liability if any search engine, online directory or search site chooses not to list a client's web site.

Payment

A non-refundable payment of 35 per cent or the first payment made by the client - of the total fee is due with order, unless otherwise agreed, in which case payment is due upon completion of site. Whilst any payment due under the agreement remains outstanding, i3MEDIA shall be entitled at its sole and absolute discretion to withhold provision of any goods or services it would otherwise be obliged to provide under the agreement.

Our standard terms of payment are. Contract signing – On invoice. Remaining payments 14 days after invoice is raised.

i3MEDIA expects payment by cheque, electronic bank transfer or cash upon receipt of invoice.

Completion is defined to be a signoff of all specified components and not necessarily when the site goes live.

Payment may be made in Euros, Canadian Dollars or US Dollars provided this has been agreed in advance and a sum sufficient to cover exchange commission and charges and any other additional expenses incurred has been added to the amount due.

Any payment returned by the bank or credit card company will incur a £10 administration charge in addition to any charges made by the bank. This will be invoiced and will be added to the total outstanding debt owed by the customer.

In accordance with the Late Payment of Commercial Debts Act 1998 interest will be charged on all payments received outside of payment terms at the rate of eight per cent above the Bank of England Base Rate as applicable on the previous 31 December or 30 June whichever is the most recent.

In case collection proves necessary, the client agrees to pay all fees (including all legal fees and court costs) incurred by that process.

If for any reason whatsoever we are unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product.

Domain Name Research and Registration

Where the client requests i3MEDIA to research and register a domain name the domain name will always be the property and in the control of the client. If, for whatever reason, this is not possible then the client will be informed of the fact. All fees and costs incurred will be payable by the client.

Where the client wishes i3MEDIA to setup and activate email addresses and other operations for the domain or hosting, an administration fee will be charged.

Website Hosting Services

Hosting services - where your website is stored on a server for delivery to website visitors – and email services are provided under a contract between the client and the chosen hosting and email provider (Internet Service Provider (ISP)) and will be bound by the terms and conditions of that ISP.

i3MEDIA makes no commission on such recommendations or services and in recommending an ISP does so in good faith and cannot under any circumstances be held responsible or liable for any shortcomings or losses incurred as part of that contract.

Data Protection

Where the operation of the website or other services provided by i3MEDIA involves the collection and administration of personal data the client is deemed to be the Data Controller and as such is responsible for notification under the terms of the Data Protection Acts and related regulations.

i3MEDIA can arrange the required notification and the current fee for Notification and time and other costs will be payable by the client.

The client shall indemnify i3MEDIA against any actions, costs and liabilities arising from the use in good faith by i3MEDIA of personal data provided by the client or through the client's website.

Where Project involves e-commerce functionality, the client must ensure that suitable arrangements are in place to maximise security levels with regard to financial and personal information relating to the users of the website and other services. This may necessitate the use of secure electronic protocols, authentication certificates, encryption etc. and may require the provision of secure server facilities and/or the use of a credit card clearing service.

Where a service is provided relating to e-commerce whereby visitors to the client's website can order goods or services through the website - whether through direct or indirect payment the client undertakes to ensure that all transactions are carried out legally and fairly, that the security of personal information and of financial information is maintained and that the collection and control of that data meets the requirements of the Data Protection Acts and regulations.

The client is solely responsible for complying with any laws, taxes, and tariffs applicable in any way to the website or any other services contemplated, and will hold harmless, protect, and defend i3MEDIA and its sub-contractors from any claim, suit, penalty, tax, fine, or tariff arising from the website or other services provided.

Copyright

All material, both text and images supplied by the client and used in the construction of the client's web site, will remain the client's property. All such material will be assumed to be the property of the client and free to use without fear of breach of copyright laws. The client shall indemnify i3MEDIA against all and any claims arising from the use of materials of any sort provided by the client or obtained under the direction of the client from third parties such as graphic designers.

The copyright for all material provided by i3MEDIA, such as HTML code, graphics, photographs and text, will remain the property of i3MEDIA until such time as payment has been made in full. They will then become the property of the client with copyright shared between the client and i3MEDIA. This allows either party expeditiously to pursue any copyright infringement. Should the client wish to retain exclusive copyright this shall be arranged but the copyright of i3MEDIA shall only be assigned if done so expressly and in writing to the client.

It is stated that once the project is complete and all contractual agreements have been fulfilled the client below will own all rights to design and creative, and also all content present on the website whether customer facing or stored in the database.

Background programming, for example databases, CGI or JavaScript's produced by i3MEDIA, remain the intellectual property of i3MEDIA unless otherwise expressly agreed in writing. Copyright of any background programming, databases, CGI or JavaScript's remain the property of i3MEDIA for the duration of the website's existence and shall not be assigned, modified or reused without the express written permission of i3MEDIA.

This is in relation to the i3CMS - Content Management Solution.

No portion of the coding can be copied, duplicated or redistributed in any form electronic or otherwise unless a licensing agreement has been reached.

At NO point will the underlying code, framework, or database in its raw format be available to the client in unencrypted form.

We offer a source code holding service with our solicitors to give you the peace of mind that if anything was to happen to i3MEDIA Limited as a company your code in its un-encrypted format could be obtained. This is only and if i3MEDIA Limited were to cease trading. There is a yearly cost of £250 ex VAT for those clients who wish to take this service.

Sub-Contracting

If necessary i3MEDIA reserves the right, and the client hereby agrees, to allow the use of sub-contractors or agents to work on any aspect of the website or other services.

Consequential Losses

If for any reason whatsoever i3MEDIA is unable to provide an agreed product or service in accordance with these terms and conditions our liability shall be limited in its entirety to a proportional refund of any fees paid by you for the service or product.

The entire risk as to the quality and performance of the website or other services is with the client, save those services within the immediate control of i3MEDIA.

In no event will i3MEDIA be liable to the client or any third party for any damages, including, but not limited to, service interruptions caused by acts of God, the hosting service or any other circumstances beyond the control of i3MEDIA, any lost profits, lost savings or other incidental, consequential, punitive, or special damages arising out of the operation of or inability to operate the website or other services, failure of any service provider, of any Telecommunications carrier, of the Internet backbone, of any Internet servers, you or your site visitors' computer or Internet software, even if i3MEDIA has been advised of the possibility of such damages.

Quotations and Tenders

Tenders and Quotations are valid for thirty days from the date on the tender or quotation. All prices quoted may be subject to change after this period.

Communication and Site Visits

i3MEDIA's preferred method of communication is by email. Invoices will be sent by email and shall form a legal document just as if sent by traditional post. Extensive site visits should not be necessary and the majority of design approval will be undertaken using the Internet, electronic files or other means. In the absence of a maintenance agreement which will set out site visit arrangements, visits requested by the client beyond that which i3MEDIA considers reasonable will be charged per hour (including travelling time) plus reasonable travel expenses not less than the actual costs incurred.

The design process will be undertaken by telephone conferencing, sample Internet design publication on i3MEDIA's website, file design submission on computer disk, or other method as appropriate to the client's particular circumstances.

Cancellation and Termination

i3MEDIA may, by written notice, terminate the Agreement between us immediately upon the happening of any of the following events.

You fail to pay any invoice, which has become due.

You commit a material breach of any of the terms of the Agreement between us.

You enter into or propose a voluntary arrangement or composition with your creditors or reconstruction of your debts or your directors make a declaration of solvency for the purpose of a members' voluntary winding up, or if notice is given of a creditors' meeting in connection with a creditors' winding up, or if a special resolution is passed that you be wound up by the court, or if an administrative or other receiver is appointed, or if the court makes an administration order or order that you be wound up by the court, or if you cease to carry on business or are unable to pay your debts within the meaning of the Insolvency Act 1986 Section 123.

Should i3MEDIA decide to terminate the Agreement between us immediately upon the occurrence of one of the above circumstances, we reserve the right to exercise any other rights, which we may have against you.

Should we terminate the Agreement upon the occurrence of one of the above circumstances, we will not refund to you any monies paid by you to us.

If at any point during the development a client wishes to cancel, they may do so but will be invoiced up to the full amount quoted based on the degree to which the work has been completed and on the extent to which time has been allocated to the project that cannot be effectively used to generate revenue that would be otherwise lost.

If a maintenance agreement is terminated for any of the reasons mentioned above a fee equivalent to six months' charges will be payable.

In the event that i3MEDIA terminates a maintenance contract for any other reason, a refund equivalent to the unused portion of the current payment period will be the maximum liability.

Waiver and Interpretation

Should i3MEDIA waive any of these terms on an individual basis, this shall not affect the validity of remaining clauses or commit i3MEDIA to waive the same clause on any other occasion.

These terms and conditions shall prevail over all terms and conditions of your customary practice or any previous course of dealing between us and you.

Website Maintenance

Where i3MEDIA undertakes to maintain or update a client's website a system of communication will be established that meets the needs of both the client and of i3MEDIA to carry out the maintenance to a service level agreed.

Payment for maintenance is usually by quarterly fees paid in advance and is reviewed and renewable annually. Where the client cancels a maintenance contract with less than six months' notice, there will be charge of six months' fees.

Revised Maintenance agreement specific to this project will be on the basis of a quarterly renewable agreement. If the client no longer wishes to continue the maintenance agreement i3MEDIA would need, in writing the termination request no later than the 1st of the third month.

Where i3MEDIA cancels a maintenance contract other than for a reason set out in Cancellation and Termination below, a refund of the fees appropriate to that part of the quarter remaining will be made.

In instances where the client does not come to a web site management agreement it is the sole responsibility of the client to manage the site. i3MEDIA will no longer be responsible for the site upon completion unless an alternative agreement has been reached.

To assist the operation of website maintenance, contract an email account will be set up in the name of `webmaster@yourdomainname.abc` to allow site visitors to contact i3MEDIA directly with technical problems.

Unforeseen and Additional Costs and Expenses

The transfer of domain names to another server can sometimes become a complex and time-consuming matter. All administrative fees to third parties and the time taken to organise the transfer will be charged to the client irrespective of any quoted amount set out in the quotation with its specifications.

Any variation to these terms and conditions shall be inapplicable unless agreed between ourselves before we commence any work on your behalf. Work, services or products are only supplied in strict accordance with these terms and conditions.

The provision of work, services or products by us is only undertaken on the understanding that you have read and accept these terms and conditions in full.

By agreeing to these terms and conditions your statutory rights are not affected.

This contract shall be subject to English Law. In the event that i3MEDIA is not entitled to rely on a term or terms in this contract, then i3MEDIA may also be allowed to cancel all rights and obligations under this contract, or to hold all other clauses as valid entirely at their sole discretion.

No terms or conditions endorsed upon, delivered with or contained in the client's purchase order, confirmation of order, specification or other document will form part of the contract simply as a result of such document being referred to in the contract.

The client must ensure that the terms of its order and any applicable specification are complete and accurate.