



Terms & Conditions

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Standard Business Terms & Conditions

1. APPLICATION AND ENTIRE AGREEMENT

- 1.1. These Terms and Conditions apply to the provision of the services detailed in our quotation (Services) by KT12 Digital of 28 River Walk, Walton on Thames, Surrey, KT12 2DS (we or us) to the person buying the services (you the client).
- 1.2. You are deemed to have accepted these Terms and Conditions when you accept our quotation or from the date of any performance of the Services (whichever happens earlier) and these Terms and Conditions and our quotation (the Contract) are the entire agreement between us.
- 1.3. You acknowledge that you have not relied on any statement, promise or representation made or given by or on our behalf. These Conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2. INTERPRETATION

- 2.1. A "business day" means any day other than a Saturday, Sunday or bank holiday in England and Wales.
- 2.2. The headings in these Terms and Conditions are for convenience only and do not affect their interpretation.
- 2.3. Words imparting the singular number shall include the plural and vice-versa.

3. SERVICES

- 3.1. We warrant that we will use reasonable care and skill in our performance of the Services which will comply with the quotation, including any specification in all material respects. We can make any changes to the Services which are necessary to comply with any applicable law or safety requirement, and we will notify you if this is necessary.
- 3.2. We will use our reasonable endeavours to complete the performance of the Services within the time agreed or as set out in the quotation; however, time shall not be of the essence in the performance of our obligations.
- 3.3. All of these Terms and Conditions apply to the supply of any goods as well as Services unless we specify otherwise.

4. YOUR OBLIGATIONS

- 4.1. You must obtain any permissions, consents, licences or otherwise that we need and these must be Supplied to us with access to any and all relevant information, materials, properties and any other matters which we need to provide the Services.
- 4.2. We are not liable for any delay or failure to provide the Services if this is caused by your failure to comply with the provisions of this section (Your obligations).
- 4.3. If your obligations are not met or provided within a 3-month period, the full balance will become due and owing unless otherwise agreed.
- 4.4. It is the client's responsibility to ensure all content/functionality is approved prior to project sign off. For the avoidance of doubt, KT12 Digital will not be liable for any errors.

5. FEES AND DEPOSIT

- 5.1. The fees (Fees) for the Services are set out in the quotation and are on a time and products basis.
- 5.2. In addition to the Fees, we can recover from you a) reasonable incidental expenses including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, b) the cost of services provided by third parties and required by us for the performance of the Services, and c) the cost of any materials required for the provision of the Services.
- 5.3. You must pay us for any additional services provided by us that are not specified in the quotation in accordance with our then current, applicable hourly rate in effect at the time of performance or such other rate as may be agreed between us.
- 5.4. The Fees are inclusive of any applicable VAT and other taxes or levies which are imposed or charged by any competent authority.
- 5.5. You must pay a deposit ("Deposit") as detailed in the quotation at the time of accepting the quotation.
- 5.6. If you do not pay the Deposit to us according to the clause above, we can either withhold provision of the Services until the Deposit is received or can terminate under the clause below (Termination).
- 5.7. The Deposit is non-refundable unless we fail to provide the Services and are at fault for such failure (where the failure is not our fault, no refund will be made).
- 5.8. All new projects require a minimum 50% deposit unless otherwise agreed in writing. No work will begin until cleared funds have been received.

- 5.9. KT12 Digital reserves the right to charge the amount of any taxes, value added tax, duties or royalties, etc., which are payable, whether or not included on the estimate or invoice.
- 5.10. Fees are based on current costs of production and unless otherwise agreed, are subject to amendment on or at any time after acceptance to meet any rise or fall in costs.
- 5.11. All work carried out by KT12 Digital for the client remains the intellectual property of KT12 Digital until full and final payment has been made.

6. CANCELLATION AND AMENDMENT

- 6.1. We can withdraw, cancel or amend a quotation if it has not been accepted by you, or if the Services have not started, within a period of 7 days from the date of the quotation, (unless the quotation has been withdrawn).
- 6.2. Either we or you can cancel an order for any reason prior to your acceptance (or rejection) of the quotation.
- 6.3. If you want to amend any details of the Services you must tell us in writing as soon as possible. We will use reasonable endeavours to make any required changes and additional costs will be included in the Fees and invoiced to you.
- 6.4. If, due to circumstances beyond our control, including those set out in the clause below (Circumstances beyond a party's control), we have to make any change in the Services or how they are provided, we will notify you immediately. We will use reasonable endeavours to keep any such changes to a minimum.

7. PAYMENT

We will invoice you for payment of the Fees either:

- 7.1. when we have completed the Services; or
- 7.2. on the invoice dates set out in the quotation.
- 7.3. You must pay the Fees due within 7 days of the date of our invoice or otherwise in accordance with any credit terms agreed between us.
- 7.4. Without limiting any other right or remedy we have for statutory interest, if you do not pay within the period set out above, we will charge you interest at the rate of 6% per annum above the base lending rate of the Bank of England from time to time on the amount outstanding until payment is received in full.
- 7.5. All payments due under these Terms and Conditions must be made in full without any deduction or withholding except as required by law and neither of us can assert any credit, set-off or counterclaim against the other in order to justify withholding payment of any such amount in whole or in part.

- 7.6. If you do not pay within the period set out above, we can suspend any further provision of the Services and cancel any future services which have been ordered by, or otherwise arranged with, you.
- 7.7. Receipts for payment will be issued by us only at your request.
- 7.8. All payments must be made in British Pounds unless otherwise agreed in writing between us.
- 7.9. All Invoices are provided by way of email unless requested otherwise

8. SUB-CONTRACTING AND ASSIGNMENT

- 8.1. We can at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of our rights under these Terms and Conditions and can subcontract or delegate in any manner any or all of our obligations to any third party.
- 8.2. You must not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under these Terms and Conditions.

9. TERMINATION

We can terminate the provision of the Services immediately if you:

- 9.1. commit a material breach of your obligations under these Terms and Conditions; or
- 9.2. fail to make pay any amount due under the Contract on the due date for payment;
or
- 9.3. are or become or, in our reasonable opinion, are about to become, the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtor; or
- 9.4. enter into a voluntary arrangement under Part 1 of the Insolvency Act 1986, or any other scheme or arrangement is made with its creditors; or

- 9.5. convene any meeting of your creditors, enter into voluntary or compulsory liquidation, have a receiver, manager, administrator or administrative receiver appointed in respect of your assets or undertakings or any part of them, any documents are filed with the court for the appointment of an administrator in respect of you, notice of intention to appoint an administrator is given by you or any of your directors or by a qualifying floating charge holder (as defined in para. 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for your winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency.

10. INTELLECTUAL PROPERTY

- 10.1. We reserve all copyright and any other intellectual property rights which may subsist in any goods supplied in connection with the provision of the Services. We reserve the right to take any appropriate action to restrain or prevent the infringement of such intellectual property rights.

11. LIABILITY AND INDEMNITY

- 11.1. Our liability under these Terms and Conditions, and in breach of statutory duty, and in tort or misrepresentation or otherwise, shall be limited as set out in this clause.
- 11.2. The total amount of our liability is limited to the total amount of Fees payable by you under the Contract.

We are not liable (whether caused by our employees, agents or otherwise) in connection with our provision of the Services or the performance of any of our other obligations under these Terms and Conditions or the quotation for:

- 11.3. any indirect, special or consequential loss, damage, costs, or expenses or;
- 11.4. any loss of profits; loss of anticipated profits; loss of business; loss of data; loss of reputation or goodwill; business interruption; or, other third party claims; or
- 11.5. any failure to perform any of our obligations if such delay or failure is due to any cause beyond our reasonable control; or
- 11.6. any losses caused directly or indirectly by any failure or your breach in relation to your obligations; or
- 11.7. any losses arising directly or indirectly from the choice of Services and how they will meet your requirements or your use of the Services or any goods supplied in connection with the Services.

- 11.8. You must indemnify us against all damages, costs, claims and expenses suffered by us arising from any loss or damage to any equipment (including that belonging to third parties) caused by you or your agents or employees.
- 11.9. Nothing in these Terms and Conditions shall limit or exclude our liability for death or personal injury caused by our negligence, or for any fraudulent misrepresentation, or for any other matters for which it would be unlawful to exclude or limit liability.

12. CIRCUMSTANCES BEYOND A PARTY'S CONTROL

- 12.1. Neither of us is liable for any failure or delay in performing our obligations 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 that is beyond the control of the party in question. If the delay continues for a period of 90 days, either of us may terminate or cancel the Services to be carried out under these Terms and Conditions.

13. SUSPENSION OF SERVICES

- 13.1. KT12 Digital reserves the right to remove or suspend any server, website or web service should KT12 Digital determine, in its absolute discretion, that it in any way endangers our network or servers/accounts on our network. Events, which may cause such action, include but are not limited to:

- server involved in a Denial-of-Service Attack
- server is involved in any form of illegal activity
- server is hacked or otherwise compromised
- server is in any way used inappropriately
- server is causing network disruption however cause
- Client does not comply with KT12 Digital Terms and Conditions

14. COMMUNICATIONS

- 14.1. All notices under these Terms and Conditions must be in writing and signed by, or on behalf of, the party giving notice (or a duly authorised officer of that party).

Notices shall be deemed to have been duly given:

- 14.2. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient;
- 14.3. when sent, if transmitted by fax or email and a successful transmission report or return receipt is generated;
- 14.4. on the fifth business day following mailing, if mailed by national ordinary mail; or
- 14.5. on the tenth business day following mailing, if mailed by airmail.
- 14.6. All notices under these Terms and Conditions must be addressed to the most recent address, email address or fax number notified to the other party.

15. NO WAIVER

- 15.1. No delay, act or omission by a party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy nor stop further exercise of any other right, or remedy.

16. SEVERANCE

- 16.1. If one or more of these Terms and Conditions is found to be unlawful, invalid or otherwise unenforceable, that / those provisions will be deemed severed from the remainder of these Terms and Conditions (which will remain valid and enforceable).

17. LAW AND JURISDICTION

- 17.1. This Agreement shall be governed by and interpreted according to the law of England and Wales and all disputes arising under the Agreement (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the English and Welsh courts

18. YOUR PRIVACY

- 18.1. We do not share or sell any of your details with third party companies without your express permission and we will only email you or contact you about work-related matters.

19. CONFIDENTIALITY

- 19.1. Confidential information (the “Confidential Information”) refers to any data or information relating to the Client, whether business or personal, which would reasonably be considered to be private or proprietary to the Client and that is not

generally known and where the release of the Confidential Information could reasonably be expected to cause harm to the Client.

19.2. The KT12 Digital agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the KT12 Digital has obtained, except as authorised by the Client or as required by law. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination.

19.3. All written and oral information and material disclosed or provided by the Client to the KT12 Digital under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the KT12 Digital.

20. NO EXCLUSIVITY

20.1. The Parties acknowledge that this Agreement is non-exclusive and that either Party will be free, during and after the Term, to engage or contract with third parties for the provision of services similar to the services.

Complaints Procedure

Informal procedure

Any client who experiences a problem with the services provided by KT12 Digital should raise the matter directly by email to the KT12 Digital Company Directors, giving sufficient information to locate the material (such as a URL) and clearly outlining the grounds for complaint. KT12 Digital will approach the individual responsible for the material in question with a view to resolving the matter to the satisfaction of the complainant.

Formal complaints procedure

The formal complaints procedure should only be used where the complainant feels that the nature of the complaint is too serious to be dealt with informally, or where a satisfactory conclusion has not been reached after following the informal procedure.

A formal complaint should be made in writing to KT12 Digital, who will acknowledge receipt and ensure that the matter is looked into as soon as possible.

An initial response to any complaint can be expected within seven days of its receipt. A full and considered response to the complaint should be completed within 30 days and any subsequent remedy implemented with the minimum of delay.