

Terms and Conditions

Please read these terms carefully, as they set out our and your rights and obligations in relation to our services.

AGREEMENT TERMS AND CONDITIONS:

1. Definitions and interpretation

1.1 In the Agreement:

“Acceptance Criteria” has the meaning given to it in Clause 5.2;

“Acceptance Period” means a period of 10 Business Days beginning on the date of actual delivery of the Website to the Customer;

“Agency” means Grid24 Ltd, a company incorporated in England and Wales (registration number 04280083) having its registered office at Oakwood House, Fritwell Road, Somerton OX25 6NJ;

“Agency Confidential Information” means:

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Agency to the Customer that is marked as “confidential”, described as “confidential” or should have been reasonably understood by the Customer at the time of disclosure to be confidential;

“Agreement” means the agreement between the Agency and the Customer incorporating these web design terms, the Proposal and any Scope of Work produced as part of the project, and any amendments to it from time to time;

“App” means the app developed or to be developed by the Agency for the Customer under the Agreement.

“Business Day” means any week day, other than a bank or public holiday in England;

“Business Hours” means between 09.00 and 17.30 Greenwich Mean Time (GMT) time on a Business Day;

“Charges” means the amounts payable by the Customer to the Agency under or in relation to the Agreement (as set out in the Proposal);

“Confidential Information” means the Customer Confidential Information and the Agency Confidential Information;

“Credit” means a credit for the Agency on the Website or App, in the form specified in the Proposal or Scope of Work;

“Customer” means the customer for the Services under the Agreement, as specified in the Proposal;

“Customer Confidential Information” means:

- (a) any information disclosed (whether disclosed in writing, orally or otherwise) by the Customer to the Agency that is marked as “confidential”, described as “confidential” or should have been reasonably understood by the Agency at the time of disclosure to be confidential

“Customer Assets” means the assets and materials provided to the Agency by the Customer, or by any third party acting for or on behalf of the Customer, for incorporation into the Website;

“Defect” means a defect, error or bug having a material adverse effect on the appearance, operation or functionality of the Website but excluding any defect, error or bug caused by or arising as a result of:

- (a) an act or omission of the Customer, or an act or omission of one of the Customer’s employees, officers, agents or sub-contractors;
- (b) an incompatibility between the Website and any other application, program or software (other than the Customer Assets, the Third Party Works and any software identified as compatible in the Proposal).

“Delivery Date” means the date for delivery of the Website specified in the Proposal;

“Effective Date” means the date of execution of the Agreement;

“Force Majeure Event” means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of or problems with the internet or a part of the internet, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

“Intellectual Property Rights” means all intellectual property rights wherever in the world, whether registered or unregistered, including any application or right of application for such rights (and the “intellectual property rights” referred to above include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trade marks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

“Personal Data” has the meaning given to it in the Data Protection Act 1998;

“Proposal” means the proposal document issued by the Agency to the Customer, to which these web design terms are attached, detailing the scope of the Services and other matters relating to the Agreement, in the form executed by the parties;

“Scope of Work” means a separate document produced by the Agency for the Customer at the outset of the project that gives

greater detail of the Services that the Agency will provide for the Customer;

“Scripts” means those elements of the Website or App consisting of programs written in a computer scripting language;

“Services” has the meaning given to it in Clause 3.1;

“Third Party Works” means:

- (a) the assets and materials identified as such in the Proposal; and
- (b) the other assets and materials comprised in the Website, App or other deliverable, the Intellectual Property Rights in which are owned in whole or part by a third party (excluding the Customer Assets);

“Term” means the term of the Agreement;

“Unlawful Content” has the meaning given to it in Clause 7.1; and

“Website” means the website developed or to be developed by the Agency for the Customer under the Agreement.

1.2 In the Agreement, a reference to a statute or statutory provision includes a reference to:

- (a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and
- (b) any subordinate legislation made under that statute or statutory provision.

1.3 The Clause headings do not affect the interpretation of the Agreement.

1.4 The ejusdem generis rule is not intended to be used in the interpretation of the Agreement.

2. Term

The Agreement will come into force on the Effective Date and will continue in force until the acceptance of the Website by the Customer in accordance with Clause 5, upon which it will terminate automatically, unless terminated earlier in accordance with Clause 14.

3. The Services

3.1 The Agency will:

- (a) design and create the Website;
- (b) incorporate the Customer Assets specified in the Proposal or agreed in writing by the parties, together with the Third Party Assets, into the Website;
- (c) keep the Customer informed of the progress of the Website’s development;
- (d) provide the Customer with reasonable access to the Website during the Term; and
- (e) deliver the Website and the files comprising the Website to the Customer in accordance with Clause 5, (the “Services”).

3.2 The Agency will use reasonable endeavours to perform the Services in accordance with the timetable set out in the Proposal; however, the Agency does not guarantee that that timetable will be met.

3.3 The Agency may sub-contract the provision of the Services; providing that if the Agency does sub-contract the provision of the Services, the Agency will remain liable to the Customer for the performance of the sub-contracted obligations.

4. Customer obligations

4.1 The Customer will provide the Agency with:

- (a) such co-operation as is required by the Agency (acting reasonably) to enable the performance by the Agency of its obligations under the Agreement; and
- (b) all information and documents required by the Agency (acting reasonably) in connection with the provision of the Services.

4.2 The Customer will be responsible for procuring any third party co-operation reasonably required by the Agency to enable the Agency to fulfil its obligations under the Agreement.

4.3 The Customer will supply to the Agency all those Customer Assets that are specified in the Proposal or separate Scope of Work.

4.4 The Customer will fulfil its obligations under Clause 4.3 in accordance with the timetable set out in the Proposal or separate Scope of Work or, if no timetable is set out, promptly following the receipt of a written request for the relevant Customer Assets from the Agency. The Agency shall not be in breach of the Agreement by virtue of any delay in the performance of its obligations under the Agreement arising out of a breach by the Customer of this Clause 4.4.

4.5 The Customer hereby grants to the Agency a licence to copy and use the Customer Assets during the Term for the purposes of fulfilling its obligations and exercising its rights under the Agreement.

5. Delivery and acceptance

- 5.1** The Agency will use reasonable endeavours to deliver the Website to the Customer for acceptance testing on or before the Delivery Date.
- 5.2** During the Acceptance Period, the Customer will carry out acceptance tests to determine:
- (a)** whether the Website conforms in all material respects with the specification of the Website in the Proposal or separate Scope of Work; and
- (b)** whether the Website has any Defects, (the "Acceptance Criteria").
- 5.3** If the Website meets the Acceptance Criteria, the Customer will send to the Agency a written notice during the Acceptance Period confirming acceptance of the Website.
- 5.4** If the Website does not meet the Acceptance Criteria:
- (a)** the Customer will send to the Agency a written notice during the Acceptance Period setting out in detail the respect(s) in which the Website does not meet the Acceptance Criteria; and
- (b)** the Agency will have a further remedial period (of 21 Business Days) to modify the Website so that it meets the Acceptance Criteria.
- 5.5** The Website will be deemed to have been accepted by the Customer if:
- (a)** the Customer does not give any notice to the Agency under Clause 5.3 or Clause 5.4 (or where applicable Clause 5.6) during an Acceptance Period; or
- (b)** the Customer publishes the Website or uses the Website for any purpose other than development and/or testing.
- 5.6** Before the end of any remedial period under Clause 5.4(b), the Agency shall re-deliver the Website to the Customer, and the provisions of this Clause 5 shall re-apply in relation to re-delivered Website, save that if the Website still does not meet the Acceptance Criteria upon re-delivery, the Customer may elect by written notice to the Agency to re-apply Clause 5.4.
- 6. Third Party Works**
- 6.1** Third Party Works will be licensed to the Customer under the relevant licensor's standard terms and conditions for online use, or on licence terms notified by the Agency to the Customer.
- 6.2** Any licence fees for Third Party Works are included in the Charges (unless the Proposal or separate Scope of Work specifies otherwise or the parties agree otherwise).
- 7. Unlawful Content**
- 7.1** The Customer must ensure that the Customer Assets will not:
- (a)** infringe any person's Intellectual Property Rights or other legal rights;
- (b)** breach any laws or regulations; or
- (c)** give rise to a cause of action against any person, in each case under any applicable law ("Unlawful Content").
- 7.2** Any breach by the Customer of Clause 7.1 will be deemed to be a material breach of the Agreement for the purposes of Clause 14.
- 7.3** The Customer hereby indemnifies and undertakes to keep indemnified the Agency against any and all damages, liabilities, cost, losses and expenses (including legal expenses) suffered or incurred by the Agency and arising out of any breach or alleged breach by the Customer of Clause 7.1.
- 8. Charges and payment**
- 8.1** The Agency will issue invoices for the Charges to the Customer on the relevant invoicing dates set out in the Proposal or separate Scope of Work, or (if earlier) upon the acceptance of the Website by the Customer.
- 8.2** The Agency will issue invoices for the Charges to the Customer when the Agency deems that it has fulfilled its obligations under this agreement and delivered the website to the Customer to the required level of completion.
- 8.3** The Customer will pay invoiced Charges to the Agency promptly and within 30 days of the date of issue of the relevant invoice under Clause 8.1.
- 8.4** The website will not be published, and source files will not be transferred from the Agency to the Customer until all invoices are paid in full. Failure to pay invoiced Charges in a prompt manner may delay the delivery date of the website. The Agency shall not be in breach of the Agreement by virtue of any delay in the performance of its obligations under the Agreement arising out of a breach by the Customer of this Clause 8.4.
- 8.5** All Charges stated in or in relation to the Agreement are stated exclusive of VAT, unless the context requires otherwise.
- 8.6** Charges must be paid by bank transfer (using such payment details as are notified by the Agency to the Customer from time to time).
- 8.7** If the Customer does not pay any amount properly due to the Agency under or in connection with the Agreement, the Agency may:
- (a)** charge the Customer interest on the overdue amount at the rate of 8% per year above the base rate of The Bank of England from time to time (which interest will accrue daily until the date of actual payment and will be compounded quarterly); or

- (b)** claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 9. Intellectual Property Rights**
- 9.1** Upon and from the date of acceptance of the Website by the Customer, provided all outstanding invoiced Charges have been paid in full, the Agency hereby:
- (a)** assigns to the Customer all existing and future copyright and other Intellectual Property Rights in the Website (excluding the Scripts, Customer Assets and Third Party Works), including the right to bring proceedings for past infringement of such rights; and
- (b)** grants to the Customer a non-exclusive irrevocable perpetual worldwide licence of all copyright and other Intellectual Property Rights in the Scripts for the purposes of:
- (i)** publishing, operating and marketing the Website;
- (ii)** backing-up the Website; and
- (iii)** updating and adapting the Website, and the Customer may sub-license the rights granted in this Clause 9.1(b) for the purposes set out herein.
- 9.2** The assignment of Intellectual Property Rights in Clause 9.1(a) is for the full term of those rights, including all extensions, renewals, revivals and reversions.
- 9.3** Without prejudice to Clause 9.4, the Agency waives (and will ensure that its employees and subcontractors waive) any moral rights they may have in the Website arising under Chapter 4 of the Copyright, Designs and Patents Act 1988 and, so far as is legally possible, any broadly equivalent rights anywhere in the world.
- 9.4** The Agency may include the Credit together with a link to the Agency's website on each page of the Website in a position and in a form to be agreed by the parties. The Customer will retain any such Credit and link in any adapted version of the Website, and the Customer will (and will only) remove any such Credit and link from the Website at the Agency's request.
- 10. Warranties**
- 10.1** The Customer warrants to the Agency that it has the legal right and authority to enter into and perform its obligations under the Agreement.
- 10.2** The Agency warrants to the Customer:
- (a)** that it has the legal right and authority to enter into and perform its obligations under the Agreement;
- (b)** that it will perform its obligations under the Agreement with reasonable care and skill;
- (c)** that the Website (excluding the Customer Assets and Third Party Works) will not infringe any person's Intellectual Property Rights under English law; and
- (d)** that the Website will operate without any Defects upon the date of acceptance of the Website.
- 10.3** If the Customer demonstrates to the Agency that the Website suffers from any Defect during the period of 30 days following the date of acceptance, the Agency will, for no additional charge, carry out any work necessary in order to remedy the Defect.
- 10.4** The Customer acknowledges that the Agency has designed the Website to work with the web browser technology specified in the Proposal or separate Scope of Work, and the Agency does not warrant that the Website will work with any other web browser technology.
- 10.5** The Customer further acknowledges that the Agency does not purport to provide any legal advice under the Agreement or in relation to the Website and the Agency does not warrant that the Website will not give rise to any civil or criminal legal liability on the part of the Customer or any other person.
- 10.6** All of the parties' liabilities and obligations in respect of the subject matter of the Agreement are expressly set out herein. To the maximum extent permitted by applicable law and subject to Clause 11.1, no other terms concerning the subject matter of the Agreement will be implied into the Agreement or any related contract.
- 11. Limitations and exclusions of liability**
- 11.1** Nothing in the Agreement will:
- (a)** limit or exclude the liability of a party for death or personal injury resulting from negligence;
- (b)** limit or exclude the liability of a party for fraud or fraudulent misrepresentation by that party;
- (c)** limit any liability of a party in any way that is not permitted under applicable law; or
- (d)** exclude any liability of a party that may not be excluded under applicable law.
- 11.2** The limitations and exclusions of liability set out in this Clause 11 and elsewhere in the Agreement:
- (a)** are subject to Clause 11.1;
- (b)** govern all liabilities arising under the Agreement or in relation to the subject matter of the Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty; and

- (c) will limit and exclude the liability of the parties under the express indemnities set out the Agreement
- 11.3** The Agency will not be liable to the Customer in respect of any loss of profits, income, revenue, use, production or anticipated savings.
- 11.4** The Agency will not be liable to the Customer for any loss of business, contracts or commercial opportunities.
- 11.5** The Agency will not be liable to the Customer for any loss of or damage to goodwill or reputation.
- 11.6** The Agency will not be liable to the Customer in respect of any loss or corruption of any data, database or software.
- 11.7** The Agency will not be liable to the Customer in respect of any special, indirect or consequential loss or damage.
- 11.8** The Agency will not be liable to the Customer for any losses arising out of a Force Majeure Event.
- 11.9** The Agency's liability to the Customer in relation to any event or series of related events will not exceed the greater of:
- (a) £1000; and
- (b) the total amount paid and payable by the Customer to the Agency under the Agreement during the one month period immediately preceding the event or events giving rise to the claim.
- 11.10** The Agency's aggregate liability to the Customer under the Agreement will not exceed the greater of:
- (a) £1000; and
- (b) the total amount paid and payable by the Customer to the Agency under the Agreement.
- 12. Data protection**
- 12.1** The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Agency under the Agreement.
- 12.2** The Agency warrants that:
- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Agency on behalf of the Customer; and
- (b) it has in place appropriate security measures (both technical and organisational) against:
- (i) unlawful or unauthorised processing; and
- (ii) loss or corruption, of Personal Data processed by the Agency on behalf of the Customer.
- 13. Confidentiality and publicity**
- 13.1** The Agency will:
- (a) keep confidential and not disclose the Customer Confidential Information to any person save as expressly permitted by this Clause 13; and
- (b) protect the Customer Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 13.2** The Customer will:
- (a) keep confidential and not disclose the Agency Confidential Information to any person save as expressly permitted by this Clause 13; and
- (b) protect the Agency Confidential Information against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 13.3** Confidential Information of a party may be disclosed by the other party to that other party's officers, employees, agents, insurers and professional advisers, provided that the recipient is bound in writing to maintain the confidentiality of the Confidential Information disclosed.
- 13.4** The obligations set out in this Clause 13 shall not apply to:
- (a) Confidential Information that is publicly known (other than through a breach of an obligation of confidence);
- (b) Customer Confidential Information that is in possession of the Agency prior to disclosure by the Customer, and Agency Confidential Information that is in possession of the Customer prior to disclosure by the Agency; or
- (c) Customer Confidential Information that is received by the Agency, and Agency Confidential Information that is received by the Customer, from an independent third party who has a right to disclose the relevant Confidential Information.
- 13.5** Nothing in the Agreement shall restrict a party from making any disclosure of Confidential Information that is:
- (a) required by law; or
- (b) required by a governmental authority, stock exchange or regulatory body, provided that the party subject to such disclosure requirement must where permitted by law give to the other party prompt written notice of the disclosure requirement.
- 13.6** Subject to the Agency's compliance with the other provisions of this Clause 13, the Agency may make public disclosures relating to the subject matter of the Agreement (including press releases, public announcements and marketing materials) unless expressly requested by the Customer in writing.

14. Termination

- 14.1** Either party may terminate the Agreement immediately by giving written notice to the other party if the other party:
- (a) commits any material breach of any term of the Agreement, and:
- (i) the breach is not remediable; or
- (ii) the breach is remediable, but the other party fails to remedy the breach within 30 days of receipt of a written notice requiring it to do so; or
- (b) persistently breaches the terms of the Agreement (irrespective of whether such breaches collectively constitute a material breach).
- 14.2** Either party may terminate the Agreement immediately by giving written notice to the other party if:
- (a) the other party:
- (i) is dissolved;
- (ii) ceases to conduct all (or substantially all) of its business;
- (iii) is or becomes unable to pay its debts as they fall due;
- (iv) is or becomes insolvent or is declared insolvent; or
- (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement); or
- (d) (where that other party is an individual) that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.
- 14.3** The Agreement may also be terminated by the Customer under Clause 5.6.
- 15. Effects of termination**
- 15.1** Upon termination all the provisions of the Agreement will cease to have effect, save that the following provisions of the Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely): Clauses 1, 7.3, 8.7, 9, 11, 13.1 to 13.5, 15, and 16.3 to 16.12.
- 15.2** Termination of the Agreement will not affect either party's accrued rights (including the Agency's accrued rights to invoice for and to be paid the Charges) as at the date of termination.
- 15.3** If the Agreement is terminated by the Customer under Clause 14.2 or 14.3 (but not in any other case):
- (a) the Agency will promptly provide to the Customer an electronic copy of the Website (as constituted at the date of termination); and
- (b) the Customer will be entitled to a refund of any Charges paid by the Customer to the Agency in respect of any Services which were to be performed after the date of effective termination, and will be released from any obligation to pay such Charges to the Agency (such amount to be calculated by the Agency using any reasonable methodology).
- 15.4** Save as provided in Clause 15.3(b), the Customer will not be entitled to any refund of Charges on termination, and will not be released from any obligation to pay Charges to the Agency.
- 16. General**
- 16.1** Any notice given under the Agreement must be in writing (whether or not described as "written notice" in the Agreement) and must be delivered personally, sent by post, or sent by email, for the attention of the relevant person, and to the relevant address, email address given below (or as notified by one party to the other in accordance with this Clause).

The Agency

Grid24 Ltd, Oakwood House, Fritwell Road, Somerton OX25 6NJ – accounts@grid24.com

The Customer

The addressee set out in the Proposal or separate Scope of Work.

- 16.2** A notice will be deemed to have been received at the relevant time set out below (or where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below):
- (a) where the notice is delivered personally, at the time of delivery;
- (b) where the notice is sent by post, 48 hours after posting; and
- (c) where the notice is sent by email, at the time of the transmission (providing the sending party retains written evidence of the transmission).

- 16.3** No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 16.4** If a Clause of the Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of the Agreement will continue in effect. If any unlawful and/or unenforceable Clause would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the Clause will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant Clause will be deemed to be deleted).
- 16.5** Nothing in the Agreement will constitute a partnership, agency relationship or contract of employment between the parties.
- 16.6** The Agreement may not be varied except by a written document signed by or on behalf of each of the parties.
- 16.7** The Customer hereby agrees that the Agency may freely assign any or all of its contractual rights and/or obligations under the Agreement. Save as expressly provided in this Clause or elsewhere in the Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in the Agreement or any contractual rights or obligations under the Agreement.
- 16.8** The Customer will not without the Agency's prior written consent either during the Term or within 6 months following the end of the Term, engage, employ or otherwise solicit for employment any employee or contractor of the Agency who has been involved in the performance of the Agreement.
- 16.9** Each party agrees to execute (and arrange for the execution of) any documents and do (and arrange for the doing of) any things reasonably within that party's power, which are necessary to enable the parties to exercise their rights and fulfil their obligations under the Agreement.
- 16.10** The Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to the Agreement are not subject to the consent of any third party.
- 16.11** The Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of the Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of the Agreement. Subject to Clause 11.1, each party acknowledges that no representations or promises not expressly contained in the Agreement have been made by or on behalf of the other party.
- 16.12** The Agreement will be governed by and construed in accordance with the laws of England and Wales; and the courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with the Agreement.

The parties have indicated their acceptance of this Proposal and the attached web design terms by signing the approval to proceed previously included in this document.