

Terms and Conditions (medium to large project)

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1. Definitions

The following terms shall have the following meanings:

Acceptance Test Period - as set out in the Development Schedule

Additional Services - any services in addition to the Development Services which the Developer supplies to the Client and which are not covered by a separate agreement between the parties

Back End Code - all parts of the Software excluding the Distinctive Client Features

the Client - the person or company requesting the Development Services from the Developer more specifically listed in the Invoice. By agreeing to this agreement you confirm that you have the authority to bind any business on whose behalf you have requested services.

Client Materials - all copy, content, graphics, images, software, data and other materials provided or to be provided by the Client to the Developer in connection with the Services

Defect Notification Period - as set out in the Development Schedule

the Developer – Renoovo Design Ltd

Development Schedule - the timetable specified in the Invoice

Development Services - software development, procurement, consulting and programming services for the purpose of creating the Website

Distinctive Client Features - any elements of the object code of the Software which do not form part of the generic functionality of the Software and which are written specifically by the Developer at the request of the Client and excluding for the avoidance of doubt any Developer tools or routines and excluding any unused designs, layouts or other material;

Excluded Matters -

- a) Third Party Materials including third party extensions;
- b) Software other than the Software;
- c) Modifications or customisation made by or on behalf of the Client to the Software without the authorisation of the Developer; or
- d) Any incorrect, improper or unauthorised use of the Software.

Fees - the fees and expenses payable for the Services as specified in the Invoice or in this agreement together with any other fees and/or expenses agreed between the parties

Intellectual Property Rights - worldwide copyright, design rights, database right, patents and any rights to inventions, know-how, trade and business names, trade secrets, logos and devices, trade and service marks (whether registered or unregistered) and any applications therefor and all rights in confidential information

Invoice - the Invoice to which these terms and conditions are attached

Maintenance Services - services related to maintenance of the Website including modifications and updates

Personal Data - as defined in the Data Protection Act 1998

Services - the Development Services and any applicable Additional Services but for the avoidance of doubt excluding any sitebuilder-related services

Software - the computer software, in object code, which constitutes the Website

Specification - the specification for the Software which is specified or referred to in the Invoice

Start Date - as specified in the Invoice

Third Party Material - third party software, images or other resources comprised within the Software including third party extensions

Warranty Period - 90 days after the Developer has delivered the Software

Website - the website to be developed by the Developer as set out in the Specification

in Writing - all forms of visible reproduction in permanent form (including email unless otherwise stated)

2. Interpretation

Words in the singular include the plural and vice versa. References to a "person" shall include any individual, firm, unincorporated association or body corporate. Any reference in this agreement to any provision of a statute shall be construed as a reference to that provision, as amended, re-enacted or extended at the relevant time. The word "including", unless the context otherwise requires, shall mean "including without limitation". The headings in this agreement are for convenience only and shall not affect its interpretation.

3. Services

The Developer agrees to supply the Development Services and any applicable Additional Services subject to the terms and conditions of this agreement. Any Additional Services are subject to the terms of Schedule 1 as well as to the main body of this agreement. In the event of conflict, Schedule 1 shall prevail.

4. Client obligations

The Client shall:

- a) submit the Client Materials to the Developer within the time specified in the Invoice or if none, a reasonable period;
- b) be responsible for proofreading the Client Materials before submission to the Developer so as to ensure that spelling and other errors are removed; and
- c) ensure that the Client Materials are in a form suitable for reproduction or incorporation into the Website without further preparation or alteration, unless otherwise expressly provided in the Specification.
- d) provide the Developer with such additional information and documents as it may reasonably request for the proper performance of the Services; and
- e) otherwise provide reasonable co-operation to the Developer in supplying the Services.

5. Deadlines

5.1 The Developer will use its reasonable endeavours to meet any deadlines specified in the Development Schedule but does not guarantee that they will be achieved.

5.2 The Client shall comply with its obligations under this agreement by the dates specified. If the date for performance of a particular obligation is not specified, the Client shall perform that obligation promptly and in any event by such date as is reasonably required by the Developer in order for the Developer to comply with its own obligations in this agreement.

5.3 If the performance of any obligation of the Developer is delayed by reason of the delay or failure of the Client to comply with any of its obligations within the period provided for in this agreement, then without prejudice to any other right of the Developer the date for performance of that obligation of the Developer shall be postponed by a period equal to the period of client delay.

6. Acceptance

6.1 Following delivery of the Website, the Client shall be entitled to test whether the Website complies with the Specification ("Acceptance Tests"). The Acceptance Tests must take place within the Acceptance Test Period.

6.2 If it considers that the Website failed any of the Acceptance Tests, the Client shall give notice in Writing to the Developer setting out in detail the reasons for the failure ("Defects"). Such notice must be given within Defect Notification Period. If the Client gives such notice, the Developer shall make changes to the Website as reasonably necessitated by the notice within a reasonable period and re-deliver the revised Website to the Client.

6.3 The Client shall be deemed to have accepted the Website:

- a) at the end of the Defect Notification Period if the Client fails to serve a valid notice of Defects within that period;
- b) upon re-delivery of the revised Website to the Client following service of a valid notice of Notice of Defects; or
- c) if and when at any time the Client starts live operation of the whole or any part of the Website (other than for the Acceptance Tests).

7. Debugging

The Developer shall at the Developer's expense use reasonable endeavours to correct any bugs in the Software which are notified to it by the Client in Writing within 60 days following delivery of the Software but excluding those bugs which in the Developer's reasonable consideration arise from or related to any of the Excluded Matters.

8. Fees

8.1 The Client shall pay the Fees to the Developer without any withholding, deduction, counterclaim or setoff.

8.2 The following are not included in the Fees and are separately chargeable at the Developer's standard rates to the extent that the Developer agrees to undertake such work:

- a) correcting errors in the Client Materials as supplied to the Developer;
- b) correction of bugs or other errors except to the extent that this agreement states that such errors shall be corrected at the Developer's expense; and
- c) any changes requested by the Client which are outside the scope of the Specification.

8.3 Unless otherwise stated, the fees specified in the Invoice exclude any expenses incurred in acquiring Third Party Material which must be paid in addition provided that they were notified to the Client before being incurred.

8.4 The Fees are exclusive of any applicable VAT and other sales tax unless otherwise indicated. Renoovo Design Ltd is not registered for the purposes of VAT.

8.5 The Client shall pay the Fees to the Developer within the timescales specified in the Invoice or, if none, within 15 days of invoice.

8.6 The Developer may charge interest to the Client on overdue sums (both before and after judgment) at the rate that would be applicable for the time being if the amount due was a qualifying debt under the Late Payment of Commercial Debts (Interest) Act 1998.

8.7 The Developer reserves the right to suspend all or any Services including taking the Website offline and restricting access to facilities such as Google Analytics if any Fees are unpaid in which event any deadlines shall be extended accordingly.

9. Termination

9.1 Save as otherwise provided herein, this agreement may be terminated forthwith by either party if the other:

a) is in material default of its obligations under this agreement and (where remediable) has failed to substantially remedy the default within 14 days after notice in Writing (not email) is given to the defaulting party specifying the default; or

b) suffers, or threatens to suffer, any form of insolvency, receivership, administrative receivership, administration or ceases, or threatens to cease, to carry on business.

9.2 Upon the expiration or termination of this agreement for any reason accrued rights and liabilities will be unaffected and all clauses which are expressed or clearly intended to survive termination together with any other provision necessary for the interpretation or enforcement of this agreement. For the avoidance of doubt any fees that have accrued at the time of expiration or termination and are legally enforceable will remain payable.

10. Liability

10.1 Any provisions in this agreement excluding or limiting liability will apply regardless of the form of action, whether under statute, in contract or tort including negligence or otherwise. Such provisions apply to and may be enforced by the relevant party's directors, officers, employees, subcontractors, agents and affiliated companies as well as to the party itself and those parties will have the benefit of such provisions in terms of the Contracts (Rights of Third Parties) Act 1999. Nothing in this agreement in any way excludes or restricts either party's liability for negligence causing death or personal injury or for fraudulent misrepresentation or for any liability which may not legally be excluded or limited.

10.2 The liability of the Developer of any kind (including under any indemnity in this agreement or for negligence) with respect to the Services for any one event or series of related events shall in no circumstances exceed the total Fees payable to the Developer in connection with the Development Services.

10.3 The Developer shall not in any event be liable for any consequential, indirect or special damages or for economic losses (including without limit, loss of revenues, profits, contracts, business or anticipated savings) or for damage to or loss of data or for damage for loss of reputation.

10.4 The Client agrees to indemnify the Developer directors, officers, employees, subcontractors, agents and affiliated companies against all claims and liabilities related to the Client's use of the Website or Hosting Services or breach of this agreement.

10.5 Nothing in this agreement shall limit or exclude liability of the developer for:

- (a) death or personal injury caused by our negligence;
- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession);
or
- (d) defective products under the Consumer Protection Act 1987.

11. Intellectual Property Rights

11.1 Subject to payment of the Fees in full and to the other terms of this agreement, the Developer assigns to the Client with full title guarantee the copyright and all other Intellectual Property Rights in the Distinctive Client Features.

11.2 Subject to payment of the Fees in full, the Developer grants to the Client a worldwide licence to use the Back End Code (excluding Third Party Materials) solely for the purposes of operation of the Website.

11.3 Subject to payment of the Fees in full, the Developer grants to the Client a worldwide licence, or undertakes to procure for the Client the right, to use any Third Party Material subject to the Client agreeing to be bound by and to comply with any additional third party software terms and conditions notified to it (including if so required the execution of a third party software licence).

11.4 For the avoidance of doubt, the Client shall not be licensed to sell, distribute, sublicense, or create derivative works from, the Back End Code including Third Party Materials.

11.5 All Intellectual Property Rights in the Client Materials shall remain the exclusive property of the Client.

12. Accreditation

12.1 The Developer retains the right to be identified as the creator of the Website. The Client undertakes on request to include and retain accreditation of the Developer in the footer on each page of the Website in the form of 'Created by Renoovo Design Ltd' together with a link to the Developer's website.

12.2 The Developer retains the right to reproduce, publish and display details of and images from the Website (including full-size screenshots) and to describe its role in creation of the Website on the Developer's own website or in other marketing materials.

13. Warranties

13.1 The Developer warrants that the Software (excluding the Client Materials and Third Party Materials) does not and shall not infringe any third party Intellectual Property Rights.

13.2 The Developer warrants that during the Warranty Period the Software will perform substantially in accordance with any Specification, minor interruptions and errors excepted.

13.3 For the avoidance of doubt, the Developer does not warrant that the Website is compatible with any particular browsers except to the extent specifically stated in the Specification.

13.4 The Developer shall not be liable for any breach of warranty to the extent that same arises from or is related to any of the Excluded Matters.

13.5 The Developer shall not be liable for breach of warranty in this agreement unless the Client has given the Developer prompt written notice of the breach and a reasonable opportunity thereafter to rectify the breach at the Developer's expense.

13.6 The Developer:

- a) excludes all conditions, terms, representations (other than fraudulent representations) and warranties relating to the Software and the Services, express or implied, that are not expressly stated herein, including but not limited to any implied warranties as to quality, fitness for purpose or ability to achieve a particular result;
- b) makes no warranty that the Software is error free or that its use will be uninterrupted and the Client acknowledges that such errors or interruptions shall not constitute a breach of this agreement; and
- c) makes no warranty in relation to any Third Party Materials supplied in connection with the Services.

13.7 The Client warrants that:

- a) it owns or has obtained all necessary rights, permissions and licences for the use of the Client Materials supplied to Developer under this agreement;
- b) the Client Materials do not and shall not infringe any third party Intellectual Property Rights; and
- c) it shall comply with all applicable laws and regulations in connection with the Website and use of the Hosting Services.

14. Confidentiality

14.1 The Developer shall keep in confidence any information in any form (including oral) of a confidential nature obtained in connection with this agreement and shall not without the prior written consent of Client use that information other than for the purposes of this agreement or disclose it to any person other than its personnel who need to know the information for the purposes of this agreement.

14.2 This clause shall not apply to:

- a) information which becomes public knowledge has been published other than through a breach of this agreement;
- b) information lawfully in the possession of the recipient before the disclosure took place;
- c) information obtained from a third party who is free to disclose it; and
- d) information which a party is requested to disclose and if it did not could be required by law or regulation or competent authority to do so.

15. General

15.1 This agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes any previous communications or agreements between the parties in relation to such matters. Both parties acknowledge that there have been no misrepresentations and that neither party has relied on any pre-contractual statements. Liability for misrepresentation (excluding fraudulent misrepresentation) relating to the terms of this agreement is excluded

15.2 Neither party is liable for failure to perform or delay in performing any obligation (excluding payment) under this agreement if the failure or delay is caused by any circumstances beyond that party's reasonable control including third party telecommunication failures.

15.3 Any notice required by this agreement to be given by any party in Writing may be given by hand or sent (by special delivery within the UK or by international signed for post outside the UK) to another party at its registered office or such other address as that party may notify to the other party for this purpose from time to time or by fax (provided a confirming copy is sent by special delivery within the UK or by international signed for post outside the UK within one UK business day) or, unless stated otherwise, by email subject to the email not having been returned.

15.4 No amendment or variation of this agreement shall be effective unless in Writing (not email), expressed to be an amendment to this agreement and signed by a duly authorised representative of each of the parties.

15.5 Neither party may assign or transfer any of its rights or obligations under agreement without the prior consent in Writing (not email) of the other provided, however, that each party shall have the right without consent to assign or its rights or obligations under this agreement in connection with any merger, consolidation, sale or transfer of all or substantially all of such party's assets. The Developer is entitled to subcontract any of its obligations under this agreement and is responsible for procuring compliance by subcontractors with this agreement.

15.6 The failure of a party to exercise or enforce any right under this agreement shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

15.7 If any provision of this agreement is held to be unlawful, void or unenforceable in whole or in part, this agreement shall continue in force in relation to the unaffected provisions and the remainder of the provision in question, and the parties will renegotiate the offending provision in good faith to achieve the same objects.

15.8 Save insofar as expressly provided otherwise in this agreement, no third party may enforce any clause in this agreement under the Contracts (Rights of Third parties) Act 1999.

15.9 The relationship of the parties is that of independent contractors. Except as otherwise stated in this agreement, nothing in this agreement shall constitute the parties as partners, joint venturers or co-owners, or constitute any party as the agent, employee or representative of the other(s), or empower any party to act for, bind or otherwise create or assume any obligation on behalf of the other(s), and no party shall hold itself out as having authority to do the same.

15.10 This agreement shall be governed by and construed in all respects in accordance with the laws of England and each party hereby submits to the exclusive jurisdiction of the English Courts.

16. Schedule

Maintenance Services

1. Any Maintenance Services are chargeable at the rates specifically agreed by the parties or otherwise at the Developer's then standard rates for such services.
2. The Developer will use its reasonable endeavours to meet any deadlines agreed for Maintenance Services but does not guarantee that they will be achieved.
3. Either party may terminate the Maintenance Services at any time by giving at least 30 days' notice in Writing to the other.