

Terms & Conditions of Robinson & Associates Ltd

1 INTERPRETATION

- 1.1 In these Terms the following words shall have the following meanings:
- "the Customer" the person, firm or company who instructs Robinson & Associates to perform the Services;
- "Customer Material" means all material provided by the Customer for Robinson & Associates to use in the development of the website;
- "the Contract" the agreement between Robinson & Associates and the Customer for Robinson & Associates to perform the Services for the Customer which Robinson & Associates shall confirm in writing or have confirmed to them and to which these Terms shall apply;
- "Robinson & Associates" Robinson & Associates Ltd (registered number 05930602) whose registered office is at 27 Cambridge Street, Loughborough, Leicestershire LE11 1NL;
- "the Goods" any goods agreed in the Contract to be delivered to the Customer by Robinson & Associates (including any part or parts of them);
- "the Services" any Services agreed in the Contract to be delivered to the Customer by Robinson & Associates (including any part or parts of them). The nature of the Robinson & Associates' work requires development of a project and therefore any initial contract cannot be construed as a specification to the final functionality, processes and working;
- "the Specification" A definition of the functionality of the project. The specification is likely not to be initially defined in its entirety and will evolve during a project life cycle;
- "Generic Software" means the software, applications, navigation models, information architecture, database structures, content management systems, third party applications, software engineering, functionality and other generic components used in the web site design;
- "Bespoke Material" means the graphics, icons, text, branding, and other graphical and audio material created by Robinson & Associates under these Terms;
- "Writing" post, facsimile or e-mail.

2 APPLICATION OF TERMS

- 2.1 These Terms are the only terms upon which Robinson & Associates is prepared to deal with the Customer and they shall govern the Contract to the entire exclusion of all other terms or conditions.
- 2.2 No terms or conditions endorsed upon, delivered with or referred to elsewhere in any written or verbal communications between Robinson & Associates and the Customer will form part of the Contract and the Customer waives any right which it otherwise might have to rely on such terms or conditions.
- 2.3 In the event of a conflict between any express written terms of the Contract and these Terms, the written terms of the Contract shall prevail.

3 APPOINTMENT

- 3.1 Robinson & Associates shall deliver, and the Customer shall accept, the Goods and/or the Services in accordance with and subject to these Terms.
- 3.2 The Goods and Services are personal to the Customer and all written reports or other communications shall only be for the benefit of the Customer and not passed to any third party.

4 CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall do all such things that the Contract provides are to be done by the Customer or which Robinson & Associates shall reasonably require in order to assist Robinson & Associates in delivering the Goods and/or performing the Services.

5 TIME FOR PERFORMANCE

- 5.1 Robinson & Associates shall use reasonable endeavours to deliver the Goods and/or perform the Services by the time specified in the Contract or if no such time is agreed, then by the time as may be agreed from time to time by Robinson & Associates and the Customer in writing. If no time is so specified, Robinson & Associates shall deliver the Goods or perform the Services within a reasonable time.
- 5.2 Robinson & Associates shall not be liable for the consequences of any delay in delivering the Goods or performing the Services.

6 PRICE

- 6.1 The price for the Goods and/or Services ("the Price") shall be as stated in the Contract or as agreed later by Robinson & Associates and the Customer. The Price is based upon the current costs of production and may be varied by Robinson & Associates providing written notice to the Customer at any time prior to delivery or performance to meet any rise in such costs. If Robinson & Associates and the Customer do not specify a price in the Contract and subsequently fail to agree on one, Robinson & Associates shall be entitled to charge a fair price for the Goods and/or Services, based on its daily rates where appropriate and any special factors relating to the Contract.
- 6.2 The Price shall not include the cost of hosting websites in a live or test environment, e-mail, domain name registration or renewal, secure certificates, third party components, search engine registration, photography, models, props, manuals or training unless otherwise agreed and stated in the contract.
- 6.3 The Price shall be exclusive of value added tax which shall, where applicable, be charged to and payable by the Customer in addition.
- 6.4 Where the Customer requires Robinson & Associates to carry out any preliminary work or work additional to that provided for in the Contract, Robinson & Associates shall be entitled to charge for such additional work at such sum as the parties shall agree, or, in default of agreement, at Robinson & Associates' standard daily rates. In the event that delivery of the Goods or performance of the Services is delayed or disrupted by factors beyond the control of Robinson & Associates, Robinson & Associates shall be entitled to a fair and reasonable adjustment to its fee.
- 6.5 Following confirmation by Robinson & Associates in Writing of the Contract, any cancellation or postponement of the Contract by the Customer shall entitle Robinson & Associates to charge a reasonable cancellation or postponement fee to recover any costs incurred and compensate for the anticipated time the Contract with the Customer was to take and which Robinson & Associates has planned to allocate to the Customer.

- 6.6 Should the customer delay a project following commencement then Robinson & Associates withhold the right to review any additional costs associated in restarting that project and implement any rate changes that may have occurred in the interim.

7 PAYMENT

- 7.1 The Customer shall pay the price for the Goods and/or the Services within 28 days of the date of the invoice in respect of the Contract ('the Due Date').
- 7.2 Unless agreed to the contrary in the Contract, payment for the work performed in each calendar month shall become due at the end of that month and shall be charged to the Customer at Robinson & Associates' standard daily rates.
- 7.3 The Customer shall make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount abatement or otherwise unless the Customer has a valid court order requiring an amount equal to such deduction to be paid by Robinson & Associates to the Customer.
- 7.4 If payment is not made by the Due Date, then the Customer shall pay interest to Robinson & Associates on such sum due from time to time for payment at the annual rate of 4 % above the base lending rate from time to time of the Alliance & Leicester Commercial Bank accruing on a daily basis until payment is made, whether before or after any judgment.

8 TITLE/RISK

- 8.1 Title in the Goods supplied to the Customer under the terms of the Contract shall not pass to the Customer until Robinson & Associates has received in full (in cash or cleared funds):
- 8.1.1 the Price; and
- 8.1.2 all other sums which are or which become due to Robinson & Associates from the Customer in respect of the Contract or otherwise.
- 8.2 Until title in the Goods has passed to the Customer, the Customer shall:
- 8.2.1 hold the Goods on a fiduciary basis as Robinson & Associates' bailee;
- 8.2.2 store the Goods so far as is possible (at no cost to Robinson & Associates) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as Robinson & Associates' property;
- 8.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;
- 8.2.4 maintain the Goods in satisfactory condition insured on Robinson & Associates' behalf for their full price against all risks to the reasonable satisfaction of Robinson & Associates. On request the Customer shall produce the policy of insurance to Robinson & Associates; and
- 8.2.5 hold the proceeds of the insurance referred to in sub-clause 8.2.4 on trust for Robinson & Associates and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

9 INTELLECTUAL PROPERTY RIGHTS

- In consideration for the receipt by Robinson & Associates of all monies payable to Robinson & Associates by the Customer, Robinson & Associates assigns all intellectual property rights in the Bespoke Material to the Customer.
- 9.1 All intellectual property rights in the Customer Material will belong to and remain vested in the Customer subject to a worldwide, royalty-free, non-exclusive, non-transferable licence for Robinson & Associates to use it to the extent necessary to deliver the Goods or perform the Services.
- 9.2 The Customer warrants that it owns the intellectual property rights in the Customer

Material and that it has the right to grant the licence in clause 9.2.

- 9.3 The intellectual property rights in everything except for the Bespoke Material and the Customer Material will remain vested in Robinson & Associates.
- 9.4 Robinson & Associates grants to the Customer a worldwide, royalty-free, non-exclusive, non-transferable licence for the Customer to use the Generic Software only for the purpose of operating, maintaining and developing the website created by Robinson & Associates for the Customer.
- 9.5 The licence in clause 9.5 above shall terminate if:
- 9.5.1 any term of these Terms is breached by the Customer; or
- 9.5.2 the Customer enters into any compromise or arrangement with its creditors, commits any act of bankruptcy or if an order is made or an effective resolution is passed for its winding up (except for the purposes of amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver and/or manager, receiver, administrative receiver is appointed in respect of the whole or any part of the Customer's undertaking or assets.
- 9.6 Unless otherwise agreed, Robinson & Associates' legal costs in preparing any agreement with the customer to which these Terms relate shall be borne to the customer.

10 THIRD PARTY RIGHTS

- 10.1 Unless expressly agreed otherwise in the Contract, the Customer shall be responsible for obtaining clearances in respect of third party copyright works, trade marks, designs or other intellectual property supplied by the Customer to Robinson & Associates or directly placed by the customer through a content management system or similar application onto servers and/or other IT equipment under the control of Robinson & Associates or their suppliers.
- 10.2 Unless expressly agreed otherwise in the Proposal, Robinson & Associates shall be responsible for obtaining clearances in respect of third party copyright works, trade marks, designs or other intellectual property supplied by Robinson & Associates to the Customer under the Contract.
- 10.3 Each party shall indemnify the other and keep it indemnified against all costs and expenses incurred in dealing with, defending and/or settling any claims, and all damages and costs awarded by any court of competent jurisdiction, resulting from or arising out of the other's failure to comply with clauses 10.1 and 10.2 above.
- 10.4 The customer will cover any legal costs incurred by Robinson & Associates in the creation or consideration of supplied agreements, contracts and/or legal documents in relation to the transferral and clarification of ownership and assignment of Robinson & Associates work or initial contracts delivered by the client.

11 WARRANTY AND LIMITATION OF LIABILITY

- 11.1 Robinson & Associates warrants the performance of its original software against specification for 3 months following the date of its delivery/launch to the Customer.
- 11.2 Robinson & Associates will not warrant the performance of its original software, unless formally agreed in writing to the contrary, where the Customer has/had access to the server and hence has been able to alter or attempt to alter its coding.
- 11.3 Following completion of the warranty period customers will be invited to extend the period under the terms of a support agreement to be agreed by both parties. Robinson & Associates will not be responsible for the performance of original software unless an agreement is in place. If no contract exists then support may be offered at Robinson &

Associates' discretion and charged at our hourly rate and completed/investigated in our chosen timeframe.

- 11.4 Additional work/additions on existing original software will be considered a "patch/modification" unless stated prior to order and will not warrant an extension to the original software's support period. Larger modifications will by right, have their own support agreement and this will be independent to the original software's support unless stated prior to order.
- 11.5 Robinson & Associates undertakes to use reasonable skill and care in delivering the Goods or performing the Services.
- 11.6 Should additions/modifications be made to existing software errors occurring in other parts/areas of the software deemed as a consequence of the minor modification will be rectified at cost unless Robinson & Associates have committed to full analysis of implications prior to the change and undertaken a full test plan of all the system as part of the original work. In brief Robinson & Associates will not be responsible unless full procedure has been commissioned.
- 11.7 Robinson & Associates undertake to provide during development reasonable effort to afford the customer clarification to the specification as interpreted by Robinson & Associates. However any change/modification to this specification due to client misunderstanding of the proposed specification or amendments caused by misunderstanding, hindsight or user feedback will not be construed as an error and therefore charged at Robinson & Associates daily rate. This will apply at any stage of development and following launch.
- 11.8 Apart from the foregoing, Robinson & Associates makes no representations or gives no warranties of any kind with respect to the Goods or the Services and all such warranties including those in Sales of Goods legislation are excluded to the fullest extent permissible by law.
- 11.9 Robinson & Associates shall not be liable in any way for any losses, damages, costs or expenses, or for any loss of revenue, profit, goodwill or any consequential or indirect or special loss or damage arising out of the provision of the Goods or Services, or of any error or defect therein, or of the delivery, delayed delivery or non-delivery of the Goods or the performance, delayed performance or non-performance of the Services. Any liability not excluded by the above (or any exclusion of liability which is held by a court of competent jurisdiction to be invalid or unreasonable) shall be limited to a maximum aggregate liability of £500,000. Nothing in this clause shall exclude liability for death or personal injury arising from the negligence of Robinson & Associates or its employees or agents, or any other liability which it is prohibited from excluding at law.
- 11.10 If Robinson & Associates is required to act as an agent of the Customer, the Customer will fully indemnify Robinson & Associates if any losses or claims result.

12 DURATION

The Contract shall come into effect on Robinson & Associates' confirmation in Writing to the Customer and shall (where applicable) continue in accordance with terms specified in the Contract, or until the Goods have been delivered or the Services have been performed, unless terminated earlier pursuant to Clause 13.

13 TERMINATION

- 13.1 Either party ("the terminating party") shall have the right at any time by giving notice in writing to the other party to terminate the Contract forthwith if:

- 13.1.1 the other party commits a material breach of any of these Terms, and has failed to remedy it within 30 days of receipt of a notice from the terminating party requiring the other party to do so;
- 13.1.2 any distress, execution or other process is levied upon any of the assets of the other party;
or
- 13.1.3 the other party enters into any compromise or arrangement with its creditors, commits any act of bankruptcy or if an order is made or an effective resolution is passed for its winding up (except for the purposes of amalgamation or reconstruction as a solvent company) or if a petition is presented to court, or if a receiver and/or manager, receiver, administrative receiver is appointed in respect of the whole or any part of the other party's undertaking or assets.
- 13.2 The termination of the Contract, however arising, will be without prejudice to the rights and duties of the parties accrued prior to termination. The clauses which expressly or impliedly have effect after termination (which include but are not limited to clauses 6, 7, 8, 9, 10, 11, 15, 16, 18 and 19) will continue to be enforceable notwithstanding termination.

14 ASSIGNMENT AND SUB-CONTRACTING

- 14.1 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of Robinson & Associates.
- 14.2 Robinson & Associates may assign or sub-contract the Contract or any part of it to any person, firm or company and shall give notice to the Customer at the time of such assignment or sub-contract.

15 CONFIDENTIALITY

- 15.1 Each party agrees and undertakes that it will keep confidential, and will not use for its own purposes nor without the prior written consent of the other, disclose to any third party, any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party unless such information is public knowledge or already known to such party at the time of disclosure or subsequently becomes public knowledge other than by breach of these Terms or comes lawfully into the possession of such party from a third party.
- 15.2 The provisions of this clause shall remain in force and effect notwithstanding any termination of the Contract.
- 15.3 All Robinson & Associates documentation supplied to the customer remains "Commercial in confidence" and should not be copied or distributed for reasons beyond the project.

16 PUBLICITY AND ACKNOWLEDGEMENTS

- 16.1 Robinson & Associates shall be entitled to publicise its role in delivering the Goods and performing the Services and shall be entitled to use the Bespoke Material for that purpose.
- 16.2 The Customer shall ensure that Robinson & Associates' contribution in performing the Contract and Robinson & Associates' copyright (if any) are properly acknowledged.
- 16.3 For the avoidance of doubt, Robinson & Associates' statutory right to be identified as the author of any copyrightable works created in undertaking the Contract under sections 77-79 of the Copyright, Designs and Patents Act 1988 or any amendment or re-enactment thereof is asserted.

17 FORCE MAJEURE

- 17.1 Robinson & Associates shall not be liable to the Customer if it is prevented from or delayed

in the delivery of the Goods or performance of the Services due to circumstances beyond the reasonable control of Robinson & Associates including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, riot, civic commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials.

18 GENERAL

- 18.1 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 18.2 Failure or delay by either party in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of that party's rights under the Contract.
- 18.3 No person shall acquire any rights under the Contract by virtue of the Contracts (Rights of Third Parties) Act 1999, save that Robinson & Associates may assign or sub contract the Contract or any part of it to any person, firm or company.
- 18.4 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by English law and the parties submit to the non-exclusive jurisdiction of the English courts.

19 COMMUNICATIONS

- 19.1 All communications between the parties about the Contract must be in writing and delivered by hand, sent by pre-paid first class post, sent by facsimile transmission or sent by e-mail:
 - 19.1.1 In case of communications to Robinson & Associates to the address given to the Customer and as may be changed by Robinson & Associates from time to time; or
 - 19.1.2 In the case of communications to the Customer to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Contract or such other address as shall be notified to Robinson & Associates by the Customer from time to time.
- 19.2 Communications shall be deemed to have been received:
 - 19.2.1 If sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting);
 - 19.2.2 If delivered by hand, on the day of delivery;
 - 19.2.3 If sent by facsimile transmission on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day;
 - 19.2.4 If sent by e-mail on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.
- 19.3 Communications addressed to Robinson & Associates shall be marked for the attention of the project manager for the Contract in question.

20 FEEDBACK

- 20.1 Robinson & Associates welcomes feedback from its Customers on all aspects of its work. Feedback can be given through the e-mail address "email@robinsonandssociates.co.uk" Robinson & Associates' senior management take an active role in reviewing all feedback and dealing directly with the issues raised.