

Terms & Conditions of Business

Wearewood Services Ltd supply a range of web & design, hosting & maintenance, print and online services. Any additional terms that are not mentioned in our Terms & Conditions relating to our Services will be set out in our quotation emails and/or any separate written supply and support agreements.

Please read these Terms & Conditions carefully, as they set out our and your legal rights and obligations in relation to Our web hosting, maintenance and online services.

We will not file a copy specifically in relation to you and they may not be accessible on our website in the future.

These Terms & Conditions are available in the English language only.

If you have any questions or complaints about these Terms & Conditions or our Services, please contact us by writing to:

Wearewood Services Limited

158-160 South Street
Dorking
Surrey
RH4 2ES

Telephone: [01306 268842](tel:01306268842)

Email: service@wearewood.co.uk

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1. Agreement:

Definitions & Interpretation

1.1. In this Agreement:

"Affiliate" means a company, firm or individual that Controls, is Controlled by, or is under common Control with the relevant company, firm or individual;

"Agreement" means this agreement (including the Schedule) and any amendments to it from time to time;

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

"Business Hours" means between 09:30 and 16:30 on a Business Day;

"Charges" means the amounts payable by the Customer to the Company under or in relation to the Agreement (as set out on the Quotation/Order Form);

"Confidential Information" means:

- (a) any information supplied (whether supplied in writing, orally or otherwise) by one party to the other party marked as "confidential", described as "confidential" or reasonably understood to be confidential;

"Control" means the legal power to control (directly or indirectly) the management of an entity (and "Controlled" will be construed accordingly);

"Effective Date" means the date when the Agreement comes into force in accordance with Clause 2.3;

"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, hacker attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

"Implementation Date" means the date communicated by the Company to the Customer via e-mail/text/letter when construction of the website has been completed;

"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, moral rights, database rights, confidential information, trade secrets, know-how, business names, trade names, domain names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

"Minimum Term" means the period of 2 Years starting on the Effective Date;

"Our" means the Company

"Personal Data" has the meaning given to it in the General Data Protection Regulations (GDPR) 2018;

"Prohibited Content" means:

- (a) material which breaches any applicable laws, regulations or legally binding codes, or infringes any third-party rights, or may give rise to any form of legal action against the Company or the Customer or any third party;
- (b) pornographic or lewd material; and
- (c) messages or communications which are offensive, abusive, indecent or obscene, are likely to cause annoyance, inconvenience or anxiety to another internet user, or constitute spam or bulk unsolicited mail;

"Resources" means the resources specified in the Schedule;

"Schedule" means the schedule attached to this Agreement;

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“Services” means the services detailed in Clause 4;

“Term” means the term of this Agreement;

“Termination Date” means the date this agreement ends and hosting ceases.

“Website” means the website specified in the Schedule; and

“Year” means a period of 365 days (or 366 days if there is a 29 February during the relevant period) starting on the Effective Date or on any anniversary of the Effective Date.

1.2. In this 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 this Agreement.

1.4 The ejusdem generis rule is not intended to be used in the interpretation of this Agreement; it follows that a general concept or category utilised in this Agreement will not be limited by any specific examples or instances utilised in relation to such a concept or category.

2. This Agreement

2.1 In order to apply to become a Customer, the applicant must complete and submit an ‘Quotation Form’ or ‘Order Form’

2.2 If the applicant makes any input errors during the order process if made on-line, these may be identified and corrected by the applicant before the Quotation/Order Form is submitted.

2.3 Term

This Agreement will come into force when either;

(a) The Company sends to the Customer an acceptance email, following the submission of a completed ‘Order Form’

OR;

(b) Upon written authorisation from the Customer via letter/email

whichever is received first, and will continue in force indefinitely, unless and until terminated in accordance with Clause 14.

3. Transition & Implementation

3.1 The Company will implement the hosting of the Website upon commencement of the build.

3.2 Within 10 Business Days following the Implementation Date (or, if later, the actual date of implementation of the hosting of the Website), the Customer will comprehensively test the hosting of the Website and will inform the Company of the results of those tests.

4. Services

4.1 From the date of actual implementation, the Company will host the Website in the manner specified in the Schedule, and will make available the Resources for this purpose.

4.2 The Company may suspend some or all of the Services in order to carry out scheduled maintenance or repairs. Subject to this, the Company will use its best endeavours to maintain the Website availability.

4.4 The Company will upon request provide IMAP/POP3 email services to the Customer. If the Customer or a mailbox exceeds the relevant storage limit notified by the Company to the Customer from time to time, the Company may delete stored emails to bring the Customer or mailbox within the storage limit.

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5. Customer Responsibilities

5.1 The Customer will provide the Company with all co-operation, information and documentation reasonably required for the implementation and hosting of the Website and the provision of the other Services, and the Customer will be responsible for procuring any third-party co-operation in writing reasonably required for the implementation and hosting of the Website and the provision of the other Services.

5.2 The Services are provided to the Customer only, and the Customer may not resell the Services to any third party.

5.3 The Customer will be responsible for obtaining suitable licences of third-party software (such as email client software) which are required for the full use of the Services.

5.4 It is the Customer's responsibility to keep any passwords relating to the Services confidential, and to change such passwords on a regular basis. The Customer will notify the Company immediately if it becomes aware that a password relating to the Services is or may have been compromised or misused.

5.5 It is the Customer's responsibility in all circumstances, to review all information included in the Website or Service and notify the Company in the event of corrections required.

6. Acceptable Use

6.1 The Customer must not use the Website or any of the Services:

- (a) to host, store, send, relay or process any Prohibited Content;
- (b) for any purpose which is unlawful, fraudulent, or infringes any third-party rights;
- (c) in any way which may put the Company in breach of a contractual or other obligation owed by the Company to any internet service provider.
- (d) in any way which may bring the Company into disrepute.

6.2 The Company reserves the right to remove content from the Website where it reasonably suspects such content is Prohibited Content.

6.3 The Website's utilisation of Resources must not exceed the limits set out in the Schedule. If the Website's utilisation of Resources exceeds those limits, the parties will endeavour to agree a variation to this Agreement. If the parties cannot agree such a variation within a reasonable period (being not more than 30 days) following notice from the Company to the Customer requesting such variation, and Resource utilisation continues to exceed those limits, the Customer will be deemed to be in material breach of this Agreement for the purposes of Clause 14.

6.4 The Customer acknowledges that the Company does not purport to monitor the content of the Website or the use of the Services.

6.5 Where the Company reasonably suspects that there has been a breach of the provisions of this Clause 6.1, the Company may suspend any or all of the Services and/or the Customer's access to any or all Services while it investigates the matter.

6.6 Subject to Clause 6.3, any breach by the Customer of this Clause 6 will be deemed to be a material breach of this Agreement for the purposes of Clause 14.

6.7 The Customer will indemnify the Company against all damages, losses and expenses arising as a result of any breach by the Customer of this Clause 6.

7. Charges & Payment

7.1 The Company will issue an invoice for the Charges due via e-mail or alternative method of the company's choosing, 7-10 days in advance to the Customer.

7.2 The Customer will pay the Charges Quarterly in advance on the 1st day of each calendar month during the Term.

7.3 All Charges stated in or in relation to this Agreement are stated exclusive of VAT, unless the context requires otherwise.

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7.4 Charges due will be collected by Direct Debit (or by using such payment details as are notified by the Company to the Customer from time to time).

7.5 If the Customer does not pay any amount properly due to the Company under or in connection with this Agreement, the Company may:

(a) charge the Customer interest on the overdue amount at the rate of 5% per year above the base rate of HSBC Bank Plc from time to time (which interest will accrue daily until the date of actual payment, be compounded quarterly, and be payable on demand); or

(b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

8. Warranties

8.1 The Customer warrants to the Company that it has the legal right and authority to enter into and perform its obligations under this Agreement.

8.2 The Company warrants to the Customer:

- (a) that it has the legal right and authority to enter into and perform its obligations under this Agreement; and
- (b) that it will perform its obligations under this Agreement with reasonable care and skill.

8.3 All of the parties' liabilities and obligations in respect of the subject matter of this Agreement are expressly set out in the terms of this Agreement. To the maximum extent permitted by applicable law, no other terms concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

9. Liability

9.1 Nothing in this Agreement will exclude or limit the liability of either party for:

- (a) death or personal injury caused by that party's negligence;
- (b) fraud or fraudulent misrepresentation on the part of that party; or
- (c) any other liability which may not be excluded or limited under applicable law.

9.2 Subject to Clause 9, the Company's liability to the Customer under or in connection with this Agreement or any collateral contract, whether in contract or tort (including negligence), will be limited as follows:

(a) the Company will not be liable for any:

- (i) loss of profits, income or anticipated savings,
- (ii) loss or corruption of any data, database or software,
- (iii) reputational damage or damage to goodwill;
- (iv) loss of any commercial opportunity, or
- (v) indirect, special or consequential loss or damage;

(b) the Company will not be liable for any losses arising out of a Force Majeure Event; and

(c) the Company's liability in relation to any event or series of related events will in no circumstances exceed the total amount paid (or, if greater, payable) by the Customer to the Company under the Agreement during the preceding 12-month period.

10. Data Protection

10.1 The Customer warrants that it has the legal right to disclose all Personal Data that it does in fact disclose to the Company under this Agreement, and that the processing of that Personal Data by the Company for the purposes of and in accordance with the terms of this Agreement will not breach any applicable laws (including the General Data Protection Regulations (GDPR) 2018).

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10.2 The Company warrants that:

- (a) it will act only on instructions from the Customer in relation to the processing of any Personal Data performed by the Company on behalf of the Customer; and
- (b) it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or corruption of Personal Data processed by the Company on behalf of the Customer.

11. Confidentiality

11.1 Each party will keep confidential the Confidential Information of the other party, and will not disclose that Confidential Information except as expressly permitted by this Clause 11.

11.2 Each party will protect the confidentiality of the Confidential Information of the other party using at least reasonable security measures.

11.3 The Confidential Information of a party may be disclosed by the other party to its employees and professional advisers, provided that each recipient is legally bound to protect the confidentiality of the Confidential Information.

11.4 These obligations of confidentiality will not apply to Confidential Information that:

- (a) has been published or is known to the public (other than as a result of a breach of this Agreement);
- (b) is known to the receiving party, and can be shown by the receiving party to have been known to it, before disclosure by the other party; or
- (c) is required to be disclosed by law, or by an order (binding upon the relevant party) of a competent governmental authority, regulatory body or stock exchange.

12. Publicity

The Customer will not make any public disclosure relating to this Agreement (including press releases, public announcements and marketing materials) without the prior written consent of the Company, not to be unreasonably withheld or delayed.

13. Acceptance

The Customer shall be deemed to have indicated their acceptance of this agreement upon receipt by the Company of either;

- A completed 'Order Form'
- OR
- Transmission of Authorisation in writing (via letter, email or any other digital communication method)

14. Termination

14.1 Either party may terminate this Agreement at any time by giving at least three months' written notice in advance of the start of the next invoicing quarter to the other party expiring at any time after the end of the Minimum Term.

14.2 Either party may terminate this Agreement immediately by giving written notice to the other party if the other party:

- (a) commits any material breach of any term of this Agreement, and:
 - (i) the breach is not remediable; or
 - (ii) the breach is remediable, but other party fails to remedy the breach within 14 days of receipt of a written notice requiring it to do so; or
- (b) persistently breaches the terms of this Agreement.

14.3 Either party may terminate this Agreement immediately by giving written notice to the other party if:

- (a) the other party:

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- (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 this Agreement);

(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.

15. Effects of Termination

15.1 Upon termination all the provisions of this Agreement will cease to have effect, save that the following provisions of this Agreement will survive and continue to have effect (in accordance with their terms or otherwise indefinitely):
Clauses 1, 6.7, 7.5, 8, 9, 10, 11, 15 and 16.3 to 16.12.

15.2 Termination of this Agreement will not affect either party's accrued rights (including accrued rights to be paid) as at the date of termination.

15.3 If this Agreement is terminated under Clause 14:

(a) the Company will provide such assistance as is reasonably requested by the Customer, in writing prior to the Termination Date, to transfer the hosting of the Website to the Customer or another service provider, subject to payment of the Company's reasonable expenses; and

(b) the Customer will be entitled to a refund of any Charges paid by the Customer to the Company 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 Company (such amount to be calculated by the Company using any reasonable methodology).

15.4 Save as provided in Clause 15.3(c), 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 Company.

16. General

16.1 Any notice given under this Agreement must be in writing (whether or not described as "written notice" in this Agreement) and must be delivered personally, sent by pre-paid first-class post, or sent by email, for the attention of the relevant person, and to the relevant address or email address given below (or as notified by one party to the other in accordance with this Clause).

Wearewood Services Ltd

158-160
South Street
Dorking
Surrey
RH4 2ES

Email: service@wearewood.co.uk

Telephone: [01306 268842](tel:01306268842)

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):

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(a) where the notice is delivered personally, at the time of delivery;

(b) where the notice sent by first class post, 48 hours after posting; and

(c) where the notice 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 this Agreement will be waived except with the express written consent of the party not in breach.

16.4 If a Clause of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other Clauses of this 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 this Agreement will constitute a partnership or contract of employment between the parties.

16.6 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

16.7 The Company may freely assign its rights and obligations under this Agreement without the Customer's consent to any Affiliate of the assigning party or any successor to all or substantial part of the business of the assigning party from time to time. Save as expressly provided in this Clause or elsewhere in this Agreement, neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise dispose of or deal in this Agreement or any rights or obligations under this Agreement.

16.8 The Company may subcontract any of its obligations under this Agreement to any third party.

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 this Agreement.

16.10 This 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 this Agreement are not subject to the consent of any third party.

16.11 This Agreement constitutes the entire agreement and understanding of the parties in relation to the subject matter of this Agreement, and supersedes all previous agreements, arrangements and understandings between the parties relating to the subject matter of this Agreement. Subject to Clause 11.1, each party acknowledges that no representations or promises not expressly contained in this Agreement have been made by or on behalf of the other party.

16.12 This 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 this Agreement.

17. The Schedule

Website: Any Website commissioned in accordance with the details discussed with and provided by the customer either via phone or email/ through our website contact facilities including, but not excluded to: Quotation forms, Contact/Enquiry forms, Order forms and other digital communication methods.

Where a sub-domain is required, this is made available to the customer whilst the website is hosted as part of this agreement and is not transferable.

Resources

Maximum Website Storage Capacity: 500GB

Maximum Storage capacity for all IMAP/POP3 mailboxes: 50GB

Maximum Number of IMAP/POP3 mailboxes: 20