

Immense Media - Terms and Conditions

1. Definitions

- 1.1 The "Customer" means the user/client, "Immense Media" means Immense Media Limited ('us, we'), "Services" means all services provided by Immense Media including but not limited to web site creation, email, web hosting, search engine optimisation.

2. This Agreement

- 2.1 This document constitutes the whole Agreement between Immense Media and the Customer. No change to it can apply unless it is in writing and is signed by one of our Directors and someone authorised by the Customer.
- 2.2 From the date of acceptance of this agreement by us, we agree to provide you with the products and Services set out in the Schedule/Proposal, and you agree to make payments according to the terms of this agreement.
- 2.3 If we do not, at any time, enforce any of our rights under this Agreement, we do not give up any of those rights.
- 2.4 If you are a partnership of two or more persons, you will be liable for payments individually and together.
- 2.5 Immense Media agrees to provide the services to the Customer to the extent described in the Schedule/Proposal, which shall be deemed and incorporated into these terms and conditions.
- 2.6 Immense Media reserves the right to alter or withdraw any service at any time, on giving current Customers prior warning.

3. Exclusion of Warranties

- 3.1 All conditions or warranties which may be implied or incorporated into these terms and conditions by law or otherwise are hereby expressly excluded to the extent permitted by law. In no circumstances whatsoever will Immense Media be liable for economic, indirect or consequential loss.
- 3.2 Immense Media's Services are provided on an "as is" and "as available" basis and we make no warranties or representations, whether express or implied, in relation to Immense Media or the Services, including but not limited to, implied warranties or conditions of completeness, accuracy, satisfactory quality, or any loss of data resulting from delays, non-deliveries, missed deliveries, or service interruptions.
- 3.3 In any event the liability of Immense Media to the Customer in respect of an event or series of connected events arising out of or in connection with these terms and conditions whether in contract, damage (including negligence) or otherwise shall be limited to all sums payable in respect of the Services described in the Schedule/Proposal.

4. Service Price and Payment

- 4.1** The charges payable by the Customer for the provision of the Services are set out in the Schedule/Proposal. If for any reason Immense Media is unable to collect payment from the customer as it becomes due under these terms and conditions or in the event of default on payment by the customer this will constitute a material breach of these terms and conditions by the customer. Immense Media shall have the right to require the Customer to pay all sums due under these terms and conditions on demand.
- 4.2** All invoices are due for payment within 30 days from the date of issue of the invoice, unless otherwise stated in the Schedule/Proposal.
- 4.3** For accounts in default Immense Media reserves the right to charge interest on the outstanding balance at a weekly rate of 3% above HSBC's base lending rate. All payments due under these terms and conditions shall be made by the Customer in full.
- 4.4** All sums due to Immense Media under these terms and conditions are quoted exclusive of Value Added Tax and any other applicable taxes which may from time to time be charged thereon in accordance with the relevant regulations in force at the time of making the taxable supply and shall be paid by the Customer.
- 4.5** Immense Media reserves the right to terminate the services to the Customer forthwith in the event of any default of payment.

5. Termination

- 5.1** The initial term shall commence when the Customer opens an account or starts using Immense Media's services. This agreement will continue and payments will be taken according to the service subscribed to until the customer requests cancellation or if Immense Media decides to terminate the agreement according to the terms below.
- 5.2** Immense Media (without prejudice to its other rights) may terminate this Agreement immediately if:

 - a. The Customer breaches any clause under these Terms and Conditions.
 - b. Immense Media is obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other administrative authority, to cease to provide any service provided to the Customer.
 - c. The customer breaches Immense Media's Acceptable Use Policy, or
 - d. The provision of any service to the Customer would give rise to or cause disruption to the services offered by Immense Media to its customers.
- 5.3** Without prejudice to its rights of termination at any time under Clause 5.2, Immense Media shall have the right to suspend the provision of any Services without notice if Immense Media has the right to terminate this Agreement.
- 5.4** If any Immense Media invoice remains unpaid thirty (30) days after its due date, Immense Media may without further notification or prejudice to any other remedy, suspend or disable the Service or, at its option terminate the Agreement. Termination due to non-payment shall not relieve the Customer of its responsibilities under this Agreement, including the responsibility to pay all fees up to the date of termination.
- 5.5** Immense Media shall be able to terminate this agreement for any reason on giving the Customer a minimum of 1 month's' notice at any time.

- 5.6** The Customer may terminate this agreement, by giving 30 days written notice by either email, letter, or fax.
- 5.7** In the event of termination, whether initiated by the Customer or Immense Media no refunds will be given on subscription charges, whether monthly, quarterly or annual.
- 5.8** In the event of termination the Customer shall immediately cease to make use of Immense Media's Services.
- 5.9** In the event of one party suffering an Insolvency event, then the other may, without prejudice to any other right or remedy, terminate this Agreement. Where the Customer suffers an Insolvency event and this occurs during the initial 12 months of the Agreement, the Customer shall be liable for the balance of payments outstanding for the first year.

6. Acceptable Use Policy

- 6.1** A breach of our Acceptable Use Policy will constitute a material breach of these terms and conditions and shall entitle Immense Media to terminate the agreement pursuant to Clause 5.2.
- 6.2** The Customer shall not (or authorise or permit any other party to) use Immense Media's Services for the transmission of any material which is in violation of any UK law or regulation. Such prohibited transmission might include, but is not limited to: copyright material, material legally judged to be threatening or obscene, material protected by trade secret, defamatory material. Any breach of this Clause will be deemed to be a material breach of this agreement and shall entitle Immense Media to terminate the agreement pursuant to Clause 5.2 and for this purpose it shall be irrelevant whether the Customer is aware of the content or illegality of any material so transmitted or not.
- 6.3** Notwithstanding and in addition to Clause 5.2 Immense Media may suspend the Service without notice with immediate effect if in Immense Media's reasonable opinion the Customer is in breach of these Terms and Conditions or acted inconsistently with the spirit of these terms and conditions.
- 6.4** The Customer acknowledges that Immense Media is unable to exercise control over the content of the information passing over the Immense Media connection and/or the Immense Media network and/or the Services, and Immense Media hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.
- 6.5** The Customer hereby agrees to indemnify and holds Immense Media harmless from any claim brought by a third party resulting from the use of the Immense Media network, Services including but not limited to infringement of any intellectual property right of any kind, legislation or regulation. The Customer shall defend and pay all costs, damages, awards, fees (including reasonable legal fees) and judgements finally awarded against Immense Media arising from such claims, and shall provide Immense Media with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at the Customer's sole expense. Such actions will be taken in consultation with the Customer.
- 6.6** The Customer shall take reasonable efforts to keep all issued passwords, in relation to Services provided by Immense Media, private and confidential, and ensure they do not become known to other parties. If such passwords become known to other persons, it is the responsibility of the Customer to inform Immense Media immediately, so that breached passwords can be changed with immediate effect.

7. Suspension of Services

- 7.1** Immense Media may without terminating this agreement suspend provision of any Services in whole or in part until further notice with immediate effect if:
- a) Immense Media has reason to terminate this agreement in accordance with Clause 5;
 - b) Immense Media is obliged to comply with an order, instruction or request of Government, an emergency services organisation, or other administrative authority, or
 - c) Immense Media needs to carry out work relating to upgrading or maintenance of the Immense Media network but providing that Immense Media has given the Customer a reasonable period of notice practicable in the circumstances.
- 7.2** If Immense Media exercises its right of suspension in respect of an event referred to in Clause 7.1, this will not exclude its right to terminate this agreement later in respect of that or any other event, nor will it prevent Immense Media from claiming damages from the Customer resulting from such event if the Customer is in breach of these terms and conditions.

8. Web Site Creation

- 8.1** If a project timescale has been set, Immense Media cannot be held liable for any costs incurred, or lost revenue if a deadline is not met.
- 8.2** Any proposal or quote given, sets out all work included. Any work carried out over and above the original Schedule/Proposal, or enhancements on agreed workings of applications are liable for further charges to be made.
- 8.3** It is the Customers responsibility to check all content on their site with regard to accuracy and breaches of clause 6.2. All errors and breaches of clause 6.2 must be reported to Immense Media immediately.

9. Domain Name Registration

- 9.1** Immense Media act as 'agents' on behalf of the Customer, and all domain names are registered in the Customer name (unless by prior authority).
- 9.2** Domain names bought or renewed through Immense Media cover the initial 2 year period of registration of the domain name, unless otherwise stated. Domain names shall be invoiced and failure to pay within the specified period may mean that rights to the domain name are given up by the holder.
- 9.3** The Customer is bound by the terms and conditions set out by the Naming Authority.
- 9.4** Immense Media have no control over the availability of domain names and cannot be held responsible for the availability of any domain name.
- 9.5** Immense Media may charge for any administration related to clause 9, as agreed to in advance by the Customer.

9.6 Immense Media give no warranty that the domain name requested or purchased on behalf of a Customer will not infringe the rights of any third party.

10. Hosting, Maintenance and Support

Any website containing creative or functional input by Immense Media shall be hosted, maintained and supported by Immense Media and:-

- 10.1** The Client agrees that Immense Media is not liable for any bugs, performance issues or failure of their code.
- 10.2** The Client agrees that no liability will be attributable to Immense Media in the event of website downtime or the inability to operate the web pages or website
- 10.3** The Client agrees that Immense Media or its agents will not be liable if they fail to register such domain names as requested by the Client. Immense Media and its agents will use its reasonable endeavours to ensure such registration.
- 10.4** Immense Media will quote for any work involved in changing the website design or website code in order for it to work with updated browser software, domain name or hosting changes
- 10.5** A hosting invoice will be raised for each website 11 months after the initial commencement of the hosting. Hosting invoices will then be raised on an annual basis.

11. Search Marketing

- 11.1** No warranty is provided by Immense Media in relation to the performance of third parties engaged to perform part of the Project and Immense Media shall not be liable for any failure, action, omission or error on the part of a third party provider.
- 11.2** The Client agrees that Immense Media is unable to guarantee that the Client's website will achieve a favourable position, or any position, within a particular search engine and as such, shall not be liable for failure to achieve a particular position.
- 11.3** The Client agrees that Immense Media shall not be liable for any website URLs dropped or excluded by a search engine for any reason.
- 11.4** The Client agrees that Immense Media do not warrant or represent that search engine results reported will be correct, accurate, timely, reliable or otherwise due to their reliability on third party software.

12. Software

- 12.1** All software remains the property of Immense Media until full payment on the Agreement is received.
- 12.2** All source code remains the intellectual property of Immense Media at all times, unless further agreement is reached.
- 12.3** No party other than Immense Media may amend any software or source code without written consent from Immense Media.

13. Data Protection

13.1 Immense Media reserves the right to put the names and other information from the registration form relating to the Customers into a computerised directory for internal use, unless specific written instructions are received from the Customer.

13.2 Immense Media reserves the right to provide information concerning your account and activities whilst using Immense Media's services if we are requested to do so by the police or a regulatory or government authority in investigating illegal activities.

14. Archival and Backup

14.1 While Immense Media performs backups of all server computers, as part of its regular internal systems administration, Immense Media does not guarantee any storage or backup of customer data.

15. Support

15.1 Immense Media's helpdesk will provide telephone and email support on all problems experienced by the customer in relation to the Service provided in the Schedule/Proposal. Immense Media reserves the right to charge additional fees for telephone support outside the boundaries of the Agreement.

16. General Terms

16.1 Other than in respect of the Customer's obligation to make payments neither party shall be liable in respect of any breach of this contract due to any cause beyond its reasonable control including but not limited to acts of God, flood, lightning or fire, industrial action, act or omission of Government or other competent authority, riot, war or act or omission of another party for whom that party is not responsible.

16.2 Immense Media shall have the right by notice to the Customer to modify these terms and conditions at any time. It is the Customer's responsibility to check these terms and conditions for changes on a regular basis.

16.3 These terms and conditions are governed by and shall be construed in accordance with the laws of England and the Customer hereby submits to the exclusive jurisdiction of the English Courts.

16.4 These terms and conditions represent the entire agreement between the parties.

16.5 The Customer may not sell, transfer or assign its rights or obligations under this Agreement without the written consent of Immense Media. No such assignment, even if consented to, shall relieve the Customer of its obligations under this Agreement prior to the date of such an assignment.

16.6 Immense Media shall have the right to assign, sub-contract or otherwise deal with all or any of its rights and obligations under these terms and conditions to any third party.

16.7 It is the Customer obligation to notify Immense Media of any defects in the Service. Notification of a defect does not entitle the Customer to amend this agreement or bring it to an end, unless included as a breach of contract within these Terms and Conditions.

16.8 The Customer, by creating an account with Immense Media, hereby acknowledges that he/she has read and accepted the terms hereof.