

**Evexus Limited (company number: 13453986) – Terms & Conditions of Supply**

**THIS IS AN IMPORTANT LEGAL DOCUMENT WHICH YOU SHOULD READ BEFORE ENTERING INTO ANY CONTRACT WITH US FOR SUPPLY OF SERVICES BY US TO YOU. YOUR ATTENTION, IN PARTICULAR IS DRAWN TO CONDITION 7 WHICH CONTAINS LIMITS TO AND EXCLUSIONS OF OUR POTENTIAL LIABILITY TO YOU**

**Interpretation**

1.1 In these Conditions:-

“Conditions” means the conditions of supply set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between you and us

“Confidential Information” means information relating to our business services and affairs which may from time to time be, or be treated by us as, confidential. This will include all trade secrets including without limitation formulae, processes, methods, inventions, technical data and know-how relating to our business

“Contract” means the Contract between you and us for the provision by us of the Services created by our acceptance of the Specification and incorporating these Conditions

“Expenses” means any third party charge or cost of equipment hire incurred by us in providing the Services.

“Price” means the price for providing the Services

which is detailed in the Specification subject to Condition 3.1.

“Services” means the web design and hosting, search engine optimisation, domain registration and other services which we are to supply in accordance with these Conditions

“Specification” means our written specification prepared in response to your initial enquiry and our subsequent negotiation containing details of the Services, the manner in which they are to be performed by us, the basis upon which we shall charge Expenses and the Price

- 1.2 The headings in these Conditions are for convenience only and shall not affect their construction or interpretation.
- 1.3 These are the Conditions upon which we, Evexus Limited (company number 13453986) deal with you, our client. They govern all our dealings with you to the exclusion of any other terms and conditions subject to which any order for the Services is purported to be placed or any acceptance of the Specification is purported to be made by you.
- 1.4 No variation of these Conditions shall bind us unless we agree to in writing.
- 1.5 Our employees and agents are not authorised to make any representations concerning the Services unless confirmed by us in writing. You acknowledge that you do not rely on any representations which are not so confirmed. Brochures advertising and other promotional material issued by or on behalf of us do not form part of the Contract and you acknowledge that you have not relied on any statement contained therein in entering into the Contract.
- 1.6 If we waive any breach of the Contract, it should not be considered by you to be a

waiver of any further breach.

- 1.7 If any provision of these Conditions is held to be invalid or unenforceable in whole or in part the remainder of these Conditions shall continue to apply.
- 1.8 The Contract shall be governed by the laws of England.

### **Proposal**

- 2.1 The description of the Services shall be those set out in the Specification and you will be responsible for ensuring such description is accurate.
- 2.2 You may not cancel or vary any order for Services which we have accepted unless we agree to such cancellation or variation in writing and in such circumstances you will indemnify us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses which we have incurred as a result of the cancellation or variation.
- 2.3 We reserve the right to make any changes in the type of the Services which are required to conform with any applicable safety or other statutory requirements or which do not materially affect their quality or performance.

### **Contract Price**

- 3.1 The price for the Services shall be the Price detailed in the Specification. The Price so detailed is valid for 30 days only. After this time we may alter the Price at any time and the Contract shall not be binding on either of us unless and until you have confirmed your acceptance of the altered Price.
- 3.2 We reserve the right, by giving you notice at any time, to increase the Price to reflect any increase in the costs of providing the Services due to any factor beyond our control, for example significant increase in the costs of labour, any change in delivery date, duration or location requested by you or any delay caused by any of your instructions or your failure to give us adequate or correct information or instructions.

3.4 All prices quoted by us are inclusive of value added tax.

### **Terms of Payment**

4.1 Unless other payment terms are contained in the Specification we shall be entitled to invoice you for the Price at any time after your acceptance of the Specification and to invoice you for Expenses at any time after they have been incurred. If we are unable, due to any fault of yours, to perform the Services we are entitled to invoice you for the Price at any time after we notify you that we are ready to perform the Services in accordance with the Contract.

4.2 Subject to any provisions to the contrary which may be contained in the Specification, you must pay the Price and the Expenses within 10 days of the date of the invoice notwithstanding that performance of the Services may not have been completed. The time of payment of the Price and the Expenses shall be of the essence of the Contract.

4.3 If you fail to pay us on the due date then, without prejudice to any other right or remedy available to us, we shall be entitled to:-

4.3.1 cancel the Contract or suspend any further performance of the Services;

4.3.2 appropriate any payment made by you to such of the Services (or to services supplied under any other contract between you and us) as we may think fit (notwithstanding any purported appropriation by you); and

4.3.3 charge you interest (both before and after judgment) on the amount unpaid at the rate of 8% per annum above the base rate of Barclays Bank plc from time to time until payment is made in full, together with compensation for late payment under the Late Payment of Commercial Debts (Interest) Act 1998 and the Regulations made under that Act.

### **Performance**

- 5.1 We will perform the Services at the time(s) and place(s) agreed between us in the Specification. For the avoidance of doubt, time of performance of the Services shall not be of the essence of the Contract.
- 5.2 If we fail to perform the Services for any reason other than any cause beyond our reasonable control or your fault, and we are accordingly found to be liable to you, our liability shall be limited to the excess (if any) of the cost to you (in the cheapest available market) of similar services to replace those not performed over the Price.

### **Intellectual Property**

- 6.1 Subject to these Conditions, once the Price is paid in full, ownership of the copyright and any design right in any website designed by us in the performance of the Services will transfer to you. If we provide registration services in respect of your website, the administration rights of the domain name will remain with us for the duration of such services whilst beneficial ownership will transfer to you.
- 6.2 Subject to condition 6.1, all and any documents, data or other materials (and the copyright design right or other intellectual property in them) (including, but not limited to, the Specification) provided by us to you during the provision of, and/or relating to, the Services (including, but not limited to, the Specification) shall remain our property and no part of it may be reproduced by you without our prior written consent or utilised for any purpose save that contemplated by the Contract. You must keep all and any Confidential Information which we have provided confidential both during and following the termination of the Contract.
- 6.3 Any and all stock photography, database query strings, ASP, NET and PHP files provided by us shall remain our property and no part of it may be reproduced by you without our prior written consent.

### **Warranties and Liabilities**

- 7.1 Subject to the conditions set out below we warrant that the Services will be provided using reasonable care and skill, in accordance with any relevant statutory

provisions/industry standards) and, as far as is reasonably possible, in accordance with the description contained in the Specification.

- 7.2 We shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the Price is not paid by the due date or dates for payment.
- 7.3 Subject as expressly provided in these Conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 7.4 Where any valid claim in respect of any of the Services arises in accordance with these Conditions which is based on any defect in the quality of the Services or their failure to correspond with the Specification we shall be entitled to provide replacement Services free of charge or, at our sole discretion, to refund to you the Price (or a proportionate part of the Price), but we shall have no further liability to you.
- 7.5 Except in respect of death or personal injury caused by our negligence, we shall not be liable to you by reason of any representation or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (and whether caused by the negligence of us, our employees or agents or otherwise) which arise out of or in connection with the provision of the Services or your reliance on them or on any conclusions, forecasts and/or recommendations which we make in the course of providing the Services.
- 7.7 Consequential loss means any loss of anticipated profits, damage to reputation or goodwill, loss of expected future business, damages, costs or expenses payable to any third party or any other indirect losses.
- 7.8 We shall not be liable to you or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of our obligations in relation to the Services if the delay or failure was due to any cause beyond our reasonable

control.

- 7.9 You confirm that all content supplied to us by you for the purposes of carrying out the Services on your behalf is owned by you and you have full rights to share such content for the purpose of the Services or that the owner has given you permission to use the content and will allow us to use it on your behalf in behalf of the Services.

### **Insolvency**

- 8.1 This condition applies if:-

8.1.1 you make any voluntary arrangement with your creditors (whether formal or informal) or become subject to an administration order or became bankrupt or go into liquidation; or

8.1.2 a Receiver is appointed over any of your property or assets; or

8.1.3 you cease or threaten to cease to carry on business; or

8.1.4 we reasonably apprehend that any of the events mentioned above is about to occur and notify you accordingly.

- 8.2 If this condition applies then we shall be entitled to cancel the Contract or to suspend any further performance of the Services under the Contract without any liability to you and if the Services have been performed but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

### **Confidentiality**

9. You shall not use or disclose to any person either during or at any time after your engagement with us any Confidential Information which may come to your knowledge in the course of us providing the Services.

**Assignment**

10. You shall not assign the Contract or any rights accruing under it without our prior written consent.

**Notices**

11.1 Any notice to be given under these Conditions shall be delivered by hand or sent by first class post to the usual address or registered office of the addressee or to such other address in Great Britain as the intended recipient may from time to time have notified the other party for the purpose of this clause.

11.2 Notice shall be deemed to have been received:-

11.2.1 if sent by first class post 24 hours after posting;

11.2.2 if delivered by hand on the day of delivery.