

Revision Date: 1 MAY 2010

(Please ensure that you read and understand these Terms and Conditions.)

A. WEBSITE DESIGN - TERMS AND CONDITIONS

- 1. Contract:** The client's instruction for work to commence shall be deemed a contractual agreement between the client and IT-SERVE. At that point the start date for the project will be agreed.
- 2. Approval:** A client's instruction for prototyping or design work to commence and payment of the initial design fee, indicates that the client accepts the Terms and Conditions stated in this document.
- 3. Intellectual Copyright:** IT-SERVE will retain intellectual copyright of any material, including any source code and original images created for the client until payment of the final invoice has been cleared. At this time IT-SERVE will transfer the intellectual copyright of the website to the client.
- 4. Clients Responsibilities with Regard to Copyright:** In cases where the client provides IT-SERVE with images, textual content, videos or any other content for their website, the client is responsible for ensuring that this material does not infringe any copyright laws. Certain images provided by IT-SERVE in the design of the website may have been purchased under licence from stock image suppliers or may have been acquired from free sources. If a client wishes to use any images from the website for another purpose, please contact IT-SERVE for clarification.
- 5. Domain Name Registration:** All third party costs arising from the registration of a domain name shall be met by the client. IT-SERVE will register the ownership of any domain in the name of the client and will ensure that it is renewed at the appropriate time and on the instruction of the client. Should a client wish to transfer a domain name to another host, IT-SERVE will freely assist in this process. Charges may be levied by the incoming host for this transfer.
- 6. Search Engine Optimisation:** IT-SERVE will register a client's website with the major Search Engines as part of the website design agreement and at no extra cost. However, IT-SERVE is not responsible for the client's on-going web site promotion. The order in which websites are ranked in search results is controlled by the Search Engines. While IT-SERVE offers an optimisation service for this purpose, IT-SERVE is unable to give any guarantees as to the success of any Search Engine optimisation and the ranking results.
- 7. Cancellation:** Should the client wish to cancel at any point during the website design process, they will remain liable to pay for the work that has been done up to that point in time and they will be invoiced for that work on a scale consistent with the amount of work that has been done.
- 8. Website Content:** In order to ensure that website design work is started at the scheduled time and is progressed in a timely manner, it is the responsibility of the client to ensure that content for inclusion in the web site is provided to IT-SERVE at the agreed time.

IT-SERVE requires that a client provides all the required information at the appropriate time. Should there be any delay in the progress of a client's website design due to the client not providing the required information in a timely manner; IT-SERVE cannot be held responsible for any extension beyond the previously agreed completion date of the design project.

If a client fails to provide the required information within four weeks of the agreed commencement date of the design phase of their website, IT-SERVE reserves the right to end the design project. At that point, any outstanding balance remaining on the client's account with IT-SERVE becomes immediately payable.

- 9. Prototyping:** IT-SERVE employs the technique of producing website design concepts for clients in a prototype form, so that a client can see the design stages of their website as it evolves. It also allows the client the opportunity to be continually involved in the development of the design by contributing ideas or suggesting amendments before the design has gone past the stage where wholesale changes would require major alterations, and would cause delays.

Prototypes will be posted to the IT-SERVE server and will be made accessible to the client during this phase of the design.

The number of prototypes produced for any design specification will be consistent with the scale of the project, the amount of the agreed fee, and the agreed timescale for the design.

The prototyping approach is at its most effective when client's provide in advance, their preferences for the look and feel of the website, their choice of colour scheme, possible layouts of the pages, company logos, photographs, images, videos or animations in the appropriate format for the web, textual content, and the URL's for external links. It is also very helpful if clients indicate a selection of websites that they like as an example of what kind of design they prefer.

- 10. Quotations:** The price quoted to the client is for the work agreed on the quotation only. Should the client decide that changes are required after work on the website commences, then IT-SERVE will accept these changes with the proviso that additional charges may require to be negotiated.
- 11. Initial Payment:** An advance payment of 33% of the total agreed cost of the project is required to be paid by the client to IT-SERVE before any prototyping or design work can commence. ***After prototyping or design work commences, the advance payment is non-refundable.***
- 12. Payment terms:** Payment is currently accepted by cash, cheque or bankers draft in UK Pounds Sterling, electronic transfer, BACS, credit or debit card or Paypal. If a client's cheque is returned by the bank as unpaid for any reason, the client will be liable for a "returned cheque" charge of £25.
- 13. Credit/Debit Card and Paypal:** Payments by these methods are subject to a 3.5% surcharge.
- 14. Final Payment:** Full publication of the website will take place only after final payment has been received and cleared. IT-SERVE reserves the right to remove from the server, any website content previously published, if payment is not received or cleared. A minimum charge of £50.00 must be paid to IT-SERVE to have the website restored to the web.

- 15. Late Payment:** Accounts that have not been settled within 7 days of the date of the final payment reminder will normally incur a late payment charge of 10% of the amount outstanding.
- 16. Website Maintenance and Support:** The website is handed over to and accepted by the client as a fully functioning, completed work. The annual hosting fee is separate from the design fee. All updates/amendments to the published web site will be charged at our current hourly rate. Structural changes and significant content updates, where new pages and navigation links are required, will be priced separately. Minor corrections to the web site content will be free of charge.

It is unlikely that malicious software, spyware, viruses and website hacking will affect your website, but IT-SERVE will endeavour to protect a client's website from such attacks. However, IT-SERVE cannot be held responsible for attacks on completed websites, or web servers on which they are hosted, as a result of any illegal activity. Equally, IT-SERVE cannot be held responsible for the content of external websites linked to, or referenced by, the client's site and/or any infection or inappropriate content encountered as a result of users visiting these external websites.

- 17. Compliance with Ecommerce, Accessibility or Other Regulations:** IT-SERVE will design a website according to a client's requirements specification. It is the client's responsibility to ensure that the website and its content complies with statutory trade and business regulations. IT-SERVE cannot accept responsibility for any failure to comply with regulations related to accessibility, online trading or regulations related to a specific trade or business. If requested, IT-SERVE will research these issues on a client's behalf for an agreed fee, but in any organisation where complex compliance or regulatory issues exist, IT-SERVE recommends that the organisation takes legal advice before giving IT-SERVE the instruction to commence the design process.

By agreeing to these Terms and Conditions, your statutory rights are not affected.

IT-SERVE reserves the right to change or modify any of these Terms or Conditions at any time. Please contact IT-SERVE if any of the above points require clarification.

B. INVOICE PAYMENT - TERMS AND CONDITIONS

1. IT-SERVE has signed up to the Better Payment Practice Code.
2. The terms of payment of any Invoice will be clearly stated on the Invoice and will indicate the number of days, from the Invoice date, within which the account should be paid.
3. If there is a dispute about any of the contents of the Invoice, this should be notified to IT-SERVE within 2 working days of receipt of the Invoice by phoning 01592 750090, or emailing enquiries@itserve.co.uk.
4. Any goods on the Invoice supplied by IT-SERVE remain the property of IT-SERVE until paid for in full.
5. In accordance with the current late payment legislation, IT-SERVE charges debt recovery costs of **£40.00** and interest on late payments at the current reference rate set by the Bank of England plus **8%**. Interest will normally continue to accrue on an unpaid invoice at a daily rate.

6. If an account remains unpaid, IT-SERVE will have no option but to seek payment through the legal process.
7. In order to save administrative costs for both parties, IT-SERVE prefers payment by BACS into **A/C Name:** IT-SERVE, **A/c No:** 00614078, **Sort Code:** 80-08-09

C. Web Hosting and E-Mail Services - Terms and Conditions

Definitions

The following words marked in **bold** will have specific meaning in these **Terms and Conditions**. Wherever it is fitting in the context of these Terms and Conditions: "**We**" includes "**IT-SERVE**" or any party acting on IT-SERVE's implied instructions. "**You**" includes the customer purchasing the Services or any party acting on the customer's instructions. "**The Registrant**" includes the customer applying for a domain name or any party acting on the Registrant's instructions. "**The Registry**" means the relevant Domain Names Registry. "**Server**" means the computer server equipment operated by us in connection with the provision of the Services. "**Web Site**" means the area on the Server allocated by us to you for use by you as a web site for public viewing on the Internet. "**Network**" means the computer equipment leased, rented or owned and operated by us. Both parties agree to the following Terms and Conditions, and that they will apply for the duration of any Agreement.

1. Registration of a Domain Name

1.1. IT-SERVE gives no guarantee that a domain name of your choice can be registered in your name. You should wait until you have been officially notified by the appropriate domain name registration authority that your chosen domain name has been registered in your name. Any action you take before you have been notified is taken at your own risk.

1.2. The registration and use of your domain name is subject to the Terms and Conditions of the relevant domain name registration authority. You should make yourself familiar with those Terms and Conditions.

1.3. IT-SERVE cannot be held responsible for any refusal by the relevant registration authority to register a domain name, and any administration charge paid to us will be non-refundable, except in the case of refusal by the registration authority to register your chosen domain name.

1.4. The registration and renewal of .eu domain name registrations come under EURid, the European Registry of Internet Domain Names, and are subject to the **.eu Domain Name Registration Policy**. The Terms and Conditions and all Rules that currently apply are available on their website, <http://www.eurid.eu/>

1.5. IT-SERVE cannot be held liable if you fail to renew the registration of a .eu domain in accordance with these Rules.

1.6. IT-SERVE will not be held liable for your use of any domain name, and we will not enter into any dispute between you and any other party over the use of any domain name. If any such dispute arises, we shall, if requested, cooperate with the domain name registration authority.

1.7. In the case of a "free domain registration" offer, registration fees may be applied:

1.7.1. to transfer the domain name away from IT-SERVE .

1.7.2. to use the domain name with the Services of another provider.

1.7.3. to renew your subscription to the Services that were taken out as part of the "free domain registration" offer.

1.8. We cannot be held liable for any loss sustained as a result of failure to renew the registration of a domain name, either by you, or on the part of IT-SERVE.

1.9. Registration fees for domain names are non-refundable after the application to register a domain name has been submitted to the relevant registration authority.

2. Supply of Web Hosting Services and Data Storage

- 2.1. IT-SERVE gives no guarantee as to the accuracy or quality of information received by any person from the web servers and we will have no liability for any loss or damage to any data stored on our servers.
- 2.2. It is your responsibility to maintain adequate insurance cover as protection against any loss or damage to data stored on the server.
- 2.3. You agree to use the web server space allocated to you only for lawful purposes.
- 2.4. You agree not to permit any other person to use the servers in any manner which contravenes any law or regulation, or which infringes the rights of any third party.
- 2.5. You will not publish, upload, create a link to or communicate to or from the servers:-
 - 2.5.1. any material which is unlawful, unsolicited, obscene, pornographic, abusive, intimidating, malevolent, derogatory, sacrilegious or otherwise offensive in any way.
 - 2.5.2. any material containing a computer virus or other similar malware.
 - 2.5.3. any material which is deemed to assist in any criminal activity, or which violates any registered trade mark, registered patent, copyright or intellectual property right.
 - 2.5.4. any file whose copyright is not owned by you, this includes; software, shareware, mp3 files, music files, video files and games.
 - 2.5.5. any pirated software, hacking scripts, password cracking code, IP spoofing techniques, or other similar material. This includes the encryption of any of the above or web links to information about such material.
- 2.6. You agree that you have all necessary power and authority to enter into this Agreement, and (in the case of an individual) you are over 18 years of age.
- 2.7. IT-SERVE reserves the right to suspend or cancel your access to any or all Services provided by us if we deem that your account has been improperly used.

3. Acceptable Use Policy

- 3.1. You will not operate computer programs which necessitate the use of excessive system resources, including the central processor, random access memory or other system components.
- 3.2. You will keep secure, any identification, password and other confidential information relating to your account and will notify us immediately of any known or suspected unauthorised use of your account or breach of security, including loss, theft or unauthorised disclosure of your password or other security information.
- 3.3. You will at all times abide by the procedures which we may specify and will not use the servers in a manner which could cause damage to any IT-SERVE customer.
- 3.4. You will ensure that all email is sent in a secure manner and in a form approved by the Data Protection Act or any other relevant legislation.
- 3.5. You will verify that all web applications and scripts that you run on our email servers are adequately protected from abuse, including, by website users, from remote access, or by computerised spam programs.
- 3.6. We will take reasonable care to certify the integrity and security of the servers, but we do not guarantee that the servers will be free from unlawful use and we will be under no liability for any resultant failure of the email service provided to you.
- 3.7. We take regular backups of all our servers, but we do not guarantee the integrity of our backups or that we will be able to recover all or any files, databases, and email which may be lost or corrupted in the process.
- 3.8. We strongly recommend that you have an independent backup of all data stored on our servers in case we are unable to recover your data after loss or corruption.
- 3.9. IT-SERVE reserves the right to delete any file on our servers that we believe is in breach of these Terms and Conditions.

4. Email Services

- 4.1. You will use the email Services only for lawful purposes
- 4.2. You will not use our network to send or transmit, or use the Services of another company, for email deemed to be in breach of these Terms and Conditions, or under our Acceptable Use Policy or Anti-SPAM Policy.

4.3. For each or any breach of this condition, you will be charged a fee of £100.00 plus an additional £40.00 per hour administrative charge for accounts terminated or suspended under our anti-SPAM policy.

4.4. You will keep mailbox passwords confidential, and will change passwords on a regular basis. IT-SERVE is not responsible for any data loss or security issues due to stolen passwords.

4.5. We monitor the servers as a whole, but not individual mailboxes.

4.6. We run anti-SPAM software on our email servers. You can determine the levels of SPAM protection, and actions to be taken when SPAM is detected from within the control panel settings for the mailbox.

4.7. We run anti-SPAM software on outbound email from all mailboxes. IT-SERVE reserves the right to mark or delete any messages determined to be SPAM.

4.8. We run anti-virus software on all email which passes through our mail servers. IT-SERVE reserves the right to delete any email which is flagged by the anti-virus software as being infected by one or more virus signatures.

4.9. You will scan your incoming email to and from your systems for viruses. We scan your email for viruses, but we cannot guarantee that your email will be virus free and will not be held liable in the event of your systems becoming infected with a virus as a result of using our Services.

4.10. IT-SERVE policy on maintaining stable data-transfer levels includes a deletion process for email that has not been downloaded locally within 180 days of receipt, 30 days for items placed in the webmail deleted and junk mail folders, and 60 days for items in the webmail sent folder. IT-SERVE cannot be held responsible for lost items that have exceeded these limits.

4.11. If we identify a mailbox or domain that is causing problems, we will either remove the offending mailboxes or change their settings to resolve the issue. In extreme cases, we will disable email or suspend all Services to the particular domain.

4.12. Common issues that cause problems are: -

4.12.1. a mailbox which receives large volumes of undeliverable email.

4.12.2. mailboxes with forwarders set to other mailboxes where mail cannot be delivered.

4.12.3. mailboxes with forwarders and/or auto-responders that generate circular mail loops.

4.13. IT-SERVE reserves the right to terminate or suspend Services and accounts where use of the email Services is already prohibited by our Anti-SPAM Policy.

4.14. IT-SERVE reserves the right to terminate or suspend Services and accounts where a large volume of email is sent from a domain in a given timescale.

5. Anti-SPAM Policy

5.1. As part of its policy against spam, IT-SERVE operates automated spam filtering on all incoming email to the servers.

5.2. We classify spam or junk mail as 'any unsolicited advertising, promotional material, or anything similar, sent or received as an email message'.

5.3. We strongly recommend that you always scan for viruses, any email attachments.

5.4. Although spam filters do not usually catch legitimate email, no email filtering system is completely infallible. However, it is possible to customise the spam control settings to the tolerance level you require. If you experience any problems, we apologise in advance and advise that you contact us immediately for support.

6. High Resource User Policy

6.1. Resources are defined as bandwidth and central processor usage. In the event of high server resource usage by you, we reserve the right to suspend that service immediately. This policy is only implemented in extreme circumstances and is intended to prevent the misuse of our servers.

6.2. IT-SERVE reserves the right to determine what constitutes 'abnormally high' usage.

7. Service Availability

7.1. We will take reasonable steps to make available to you at all times the servers and the Services, subject to downtime caused by routine or emergency maintenance, but we will not, in any event, be liable for unforeseen interruptions to, or down-time of, the Services.

8. Payment

8.1. All charges payable by you for the Services we provide will be within the scale of charges and rates currently set by us and will be due and payable in advance.

8.2. We reserve the right to alter our charges at any time, but all charges are guaranteed for the period of prepayment.

8.3. Payment is due one calendar year following the date the Services commenced and will continue until cancellation is given in writing.

8.4. All payments must be in Pounds Sterling (GBP).

8.5. Without prejudice to our other rights and remedies under these Terms and Conditions, if any sum payable is not paid on or before the due date, we will be entitled immediately to suspend the provision of Services to you.

8.6. If an account goes unpaid for at least seven days, a late payment fee will be applied as stated in Section B5 above, and the account and all its associated Services will be suspended.

8.7. Once an account has been suspended, access to files, databases, emails, and other content is unambiguously denied. All files, databases, emails, and other content, including the account itself, will be permanently deleted after ten days of account suspension.

8.8. If you wish to reactivate an account which has been deleted, a £100.00 administration fee will be levied.

8.9. If access to files, databases and other content is required before they are deleted, the account reactivation process will be operated.

9. Termination of Agreement and Refunds

9.1. IT-SERVE will be entitled to suspend the Services and/or terminate this Agreement immediately without notice if you: -

9.1.1. fail to pay any sums due to us, as they become due.

9.1.2. break any of these Terms and Conditions, including the Acceptable Use Policy and the Anti-SPAM Policy.

9.1.3. are a company and you go into liquidation, administration, receivership or a voluntary arrangement with your creditors.

9.2. IT-SERVE reserves the right to suspend the Services and/or terminate this Agreement at any time. In this event you will be entitled to a pro rata refund based upon the remaining period of pre-payment, unless your account has been suspended due to a breach of the Terms and Conditions.

9.3. You may cancel the Services at any time. To do so, you must request cancellation of the Services in writing and must include your account username and password. We will cancel the Services within 5 working days of receipt of your request.

9.4. During the first 14 days of Services, if you cancel the Service, you are entitled to a refund of the basic hosting package rental fee, but not including any administration fees.

9.5. No full refunds will be made if your account was suspended due to a breach of the Terms and Conditions or if your request was made after the first 14 days of service provision.

9.6. Where payment has been made by credit or debit card, any refund will only be issued to the same credit or debit card.

9.7. On termination of this Agreement or Suspension of the Services, we reserve the right to immediately stop access to your web site and to remove all of your data stored on the Servers.

10. Cancellation of Contract

10.1. If you are a 'consumer', you may have a right to cancel this agreement under the Consumer Protection (Distance Selling) Regulations 2000 or similar laws

amending or replacing it. This right must be requested in writing within seven working days of the start of provision of Services by us.

10.2. Whenever a cancellation decision has been taken, access to Services supplied by IT-SERVE will be removed, and any account or Services will be terminated and files or content, including web files and email, will be deleted. Once this is complete, any monies previously paid by you to IT-SERVE will be returned to you within 30 days.

11. Indemnity

11.1. You will indemnify IT-SERVE and keep us indemnified and hold us harmless from and against, any breach by you of these Terms and Conditions and any claim brought against us by a third party resulting from the provision of Services by us to you and your use of the Services and the Servers, including, but not limited to, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), however endured or incurred by us as a result of your breach of, or non-compliance with, this Agreement.

12. Limitation of Liability

12.1. To the maximum extent permitted by applicable law, in no event will IT-SERVE be liable for any indirect, special, incidental or consequential damages arising out of interruption in service or the use of or inability to use the Services, including, but not limited to, damages for loss of goodwill, stoppage of work, computer failure or malfunction, or any and all other commercial damages or losses, even if advised of the possibility thereof, and regardless of the legal or equitable theory (contract, tort or otherwise) upon which the claim is based. In any case, our entire liability under any provision of this Agreement will not exceed in total, the sum of the fees paid for the Services (if any) which are the subject of any such claim, with the exception of death or personal injury caused by the negligence of IT-SERVE to the extent the applicable law prohibits the limitation of damages in such cases.

12.2. IT-SERVE is not responsible for any liability arising out of content provided by us or a third party, that is accessed by way of the Services and/or any material linked to, via such content.

12.3. If you are a consumer, these conditions do not affect your statutory rights under the appropriate consumer laws. You may insist on such rights at will.

13. Communication of Notices

Any notice to be given by either party to the other may be sent by email, fax or recorded delivery to the address of the other party as appearing in this Agreement or other address which may have been communicated to either in writing. If a communication is sent by email, it shall, unless the contrary is proved, be deemed to be received on the day it was sent, or if sent by fax, will be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery, will be deemed to be served two days following the date of posting.

14. Severability Clause

If any condition of this Agreement is declared by us, by you, or any legal or other proficient authority to be illegal, unenforceable, void, or subject to being declared void, we will modify that condition in a way that achieves the objectives of the parties without irregularity. We reserve the right at our discretion, to remove the condition in question from this Agreement, but all residual conditions of this Agreement will remain in effect as if the unenforceable condition (or part thereof) did not exist.

15. Applicable Law and Dispute

This Agreement and all matters arising from it are governed by the laws of Scotland, whose courts will have exclusive jurisdiction over all disputes in connection with this Agreement.

16. The Agreement

These Terms and Conditions together with any documents expressly referred to in them, contain the entire Agreement between us and they replace any previous

Agreements, undertakings, arrangements or proposals, written or oral, between us. No oral explanation or oral information given by any party will alter the interpretation of these Terms and Conditions. By accepting these Terms and Conditions, you agree that you will have no redress in respect of any representation which has not been made expressly in this Agreement.

IT-SERVE RESERVES THE RIGHT TO CHANGE THESE TERMS AND CONDITIONS AT ANY TIME.

The failure or delay of IT-SERVE to exercise or enforce any right in these Terms and Conditions, Anti-SPAM Policy, Acceptable Use Policy and High User Resource Policy, in every instance does not amount to a relinquishing of our rights. Current copies of the Terms and Conditions will be available on the IT-SERVE web site. Changes to the Terms and Conditions will be announced on the IT-SERVE web site. Failure to receive notice of a change does not invalidate any change. By accepting these Terms and Conditions, the Acceptable Use Policy, the Anti-SPAM Policy and High User Resource Policy, you have agreed to be bound by the Terms and Conditions of the Agreement and by that, any subsequent agreement or policy, and that there are no circumstances where deviation from the agreed Terms and Conditions is permitted. Please be aware that failure to carry out your obligations under this Agreement could be seen as a breach of contract, leading to the termination of Services provided by IT-SERVE.