

CUBE LAB
Terms and conditions V02.01.2020

Contents

- 1) Interpretation**
- 2) Your order**
- 3) Delays**
- 4) Stage payments**
- 5) Content**
- 6) Hosting**
- 7) Price**
- 8) Payment**
- 9) Late payment**
- 10) Cancellation**
- 11) Material and other media files**
- 12) Domain Name Registration & Website Hosting Charges**
- 13) Intellectual Property**
- 14) Changes made to the website by the client**
- 15) Search Engine Promotion**
- 16) Travel Time and Expenses**
- 17) Future Support**
- 18) Hacking and malicious software**
- 19) Warranty Terms and Limitation of liability**
- 20) Data Protection**
- 21) Confidentiality**
- 22) Email and computer advice**
- 23) Force Majeure**
- 24) Insolvency of the Customer**
- 25) Waiver**
- 26) No Set Off**
- 27) Severance**
- 28) Third parties**
- 29) Acceptance of these terms**

Interpretation

To avoid any confusion 'we' or 'us' or 'cube lab' or 'the cube lab' means The Cube Lab Limited (registered number 06558748) of 14 Castle street, Exeter, EX4 3PT.

'You' or 'client' means the client named in the Order Form / Quotation.

'Terms and Conditions' shall be these documents in addition to any special terms agreed in writing between cube lab and the client.

'The Contract' means the agreement formed between the client and cube lab and incorporates the quote/order, these terms and conditions and other documents and specifications agreed in writing between the parties.

'The Order Form' or 'Quote' or 'Quotation' refers to the combined Quote/Order supplied by cube lab.

Your order

We will commence work on your project within 7 working days of receiving your deposit and a signed order. Projects rely on the prompt supply of content and your feedback regarding any work we carry out. The deposit is non-refundable once we start the project.

Delays

We cannot be held responsible for any delays with project delivery that are due to any delays with the supply of your content or lack of prompt feedback. When a project is delayed for more than 6 months from the start of work, we may charge a fee to cover our time to progress with the work again.

Stage payments

Project costs are split into stages listed below:

Stage 1 (30%) - acts as a deposit and covers the research and concept stage

Stage 2 (30%) - payable upon acceptance of the concept

Stage 3 (30%) - payable upon completion of the designs

Stage 4 (10%) - payable upon completion of the site-build (or final designs if print-work)

The first payment acts as a deposit and no work is carried out before this payment is made.

Changes to the design once the preceding stage is signed off are chargeable unless otherwise agreed in writing. Any chargeable work will be agreed beforehand and paid for before we carry out the work.

When presenting a mood board and a general idea or concept for the project, we will carry out a maximum of two changes to the concept and if not acceptable, we will suggest a meeting to discuss the future of the project. We will only proceed to the next stage of the project when you have accepted and signed-off the design.

Content

If you are not using our content creation services, we'll use your copy which must be provided in a digital form before Stage 2 (and ideally before we start the project) in either Word or Pages documents and uploaded to Dropbox. Any copy that requires typing will be charged for at our prevailing hourly rate.

Photographs that you'd like to be included in the design must be uploaded to Dropbox or sent via the file-sending website wetransfer.com and not emailed to us.

If you need us to edit the photos we will make a charge for this service.

Hosting

Your website may be hosted at your preferred hosting partner or you may use our hosting services for which we charge a fee each year. This fee does not include maintenance or upgrades.

We are only responsible for issues with the actual code that we have supplied as long as the issue arises within 1 month of completion, during the snagging stage. After the initial warranty period, we will charge our prevailing rate for any issues that arise. We are not responsible for any issues that occur due to the hosting company or by any malicious attacks made on the website by third parties at any time in the life of the website.

We cannot be held responsible for any aspect of the performance or availability of the website at any time during the lifetime of the website.

We are not responsible for updating the software used to power your website (themes and plugins) unless you take up one of our **Care Plans** in which case we will update the software on a regular basis.

If you use your preferred hosting service

We reserve the right to charge a small fee to liaise with your hosting company while setting up the website.

Hosting fees - if we host the website for you

We will send you an invoice in advance of the annual renewal date which is each January. Payment must be made within 14 days to avoid auto-disconnection. If your website is disconnected due to non-payment of hosting fees, a re-connection fee will apply. If you are responsible for renewing the domain name, you should do so when required.

We take every care to ensure that your website is not compromised by any hacking activity but we cannot be held responsible for any such attack. You should take out the relevant business insurance against loss of data.

We do not accept responsibility for any messages that are not delivered by the website (by the use of a contact form, for example) and you should make arrangements to test the contact details (and all forms) on a regular basis.

If we are supplying hosting services only (and the website was created by a third party)

We supply hosting only in this case and bear no responsibility whatsoever for any issues with the website unless they are a direct issue caused by our hosting partners. We are not responsible for upgrading the software or providing security prevention measures and this should be carried out by your developers.

Future Support, upgrades and maintenance

The website is provided to and accepted by you as a fully functioning, completed project. We are not responsible for upgrading any software, its security or future support and maintenance and are not liable of any loss of data or subsequent loss of business.

Care Plans

If you take up one of our Care Plans, we will attend to any issues that occur with the website if they are caused by the code that we have supplied but not if they are caused by changes you have

made to the content of the website. We will update the theme and plugin files on a regular basis and be available for support and questions by email only during the times noted in your Care Plan.

These times, are;

Mini Care - Mon - Fri, 9 - 5, excluding Bank Holidays

Midi Care - Mon - Sat, 9 - 5, including Bank Holidays

Maxi Care - 7 days a week, 365 days a year, 8 - 9pm

Changes and additions

Future changes to the website will be invoiced at our prevailing hourly rate. We do not offer or include technical support for email or other services relating to your PC or Mac. If you do require help with anything beyond the design and development of your site, we will charge you at our prevailing hourly rate or refer you to a preferred partner.

Hacking and malicious software

Unfortunately malicious software, spyware, viruses and website hacking are facts of life on today's Internet. It is unlikely that these will affect your website, and we will endeavour to protect it from this as much as we can during its creation, but we cannot be held responsible for problems caused by such attacks that develop on your site after completion.

Email

If we host your emails we will create mailboxes for you, but we're not responsible for saving your emails. Your emails will be sent through the host's servers (either sending or receiving) and may be temporarily saved on the server but we are not responsible for retaining copies of your email on the server.

If you rely on saved emails to run your business, you should make other arrangements to ensure you save and back up emails independently. You should speak to your IT specialist to arrange this.

Hours of business - when support is available

Our normal times of business are from Monday to Friday, 9am - 5pm.

We do not offer support after these hours, during the weekend or Bank Holidays unless you take up one of our care Plans (see above).

Price

The total price for the work is set out in the Proposal and Quote/Order Form and is valid for 30 days and will need to be reviewed after that time.

Any additional work or changes to the original may be chargeable and will be agreed in writing beforehand. Payment must be paid before we carry out additional work.

Changes to the Order may result in a subsequent delay with the project. We will advise you in writing if this is the case.

If applicable (some businesses may be exempt) all prices are subject to the addition of Vat.

We shall not be held responsible for departures from the Contract arising from unforeseen circumstances of any kind unless stated in the Order Form to the contrary. We shall be deemed for all purposes unaware of all concealed factors which might adversely affect the proposed Contract or any facts unknown to the Business at the date when the Order Form was given.

We shall be entitled to revise the Order for such extra work as shall be involved in dealing with concealed factors. If this occurs, we will endeavour to agree any price variation with the Client prior to undertaking the work to which the price variation relates.

Payment

Payment is accepted by cheque, or BACS in UK Pounds Sterling. The project (unless agreed otherwise) will be invoiced as follows and subsequent stages will not commence until the relevant payment has been received:

The customer shall at the date of this agreement pay to the Business a deposit ("the Deposit") calculated as 30% of the quoted price. The customer will be notified of the exact amount required as a deposit. The deposit is non-refundable at any time after the project commences. The remaining payments are due as the project proceeds. We will send an invoice prior to that payment date.

The balance must be paid before the website is launched and any graphic files are supplied. If the client delays the launch of the website for any reason, the balance must still be paid.

Late payment

If payment of any invoices or any part thereof is not made by the due date then without prejudice to all or any remedies, we reserve the right to:

- a) charge interest on any sum outstanding and an administration fee at such rates and for such periods as are prescribed in The Late Payment of Commercial Debts (Interest) Act 1998 or any Regulations made thereunder; and/or
- b) refuse to undertake any undelivered work; and/or
- c) refuse to carry out any work without incurring any liability whatsoever for such refusal; and/or
- d) terminate the Contract.

If any monies are not paid by the due date on any account of the Customer whatsoever, we reserve the right to demand immediate payment of all sums due on all such accounts and to cease all works in progress for the Customer whether under the Contract or otherwise. It is important that you understand that if we are hosting your website through our hosting partners you must pay any fees owing to us whatsoever and we reserve the right to prevent access to your website if any fees are outstanding for over 14 days.

Cancellation

The Customer acknowledges that certain work is made for the Customer's specific use and cannot therefore be readily reused or resold by us or returned for a refund. Accordingly should we be prepared to accept a cancellation of the Contract the Customer shall pay the price for the Contract and in addition such other costs as we shall incur as a result of the purported cancellation or termination of the Contract (but without prejudice to any of our other rights and remedies).

Material and other media files

All material you supply shall remain your property. It will be assumed that this material belongs to you and that it does not breach any copyright laws. We are not responsible for the safety of any supplied material and you should send only copies. We cannot return this material unless you provide a return addressed and stamped envelope at your own cost.

We are not responsible for any loss or damage caused by the supply of digital files, printed media, CD or DVD discs or other media. We will endeavour to ensure that any digital files supplied by us via email or disc are virus-free. It is your responsibility to ensure that media sent to us is also virus-free.

Domain Name Registration & Website Hosting Charges

You shall meet all third party costs arising from the registration of domain names and the configuration of any hosting. Any domain names registered by us will be in your name. We will suspend any hosting and/or domain names and/or email accounts if any due invoices are unpaid.

Hosting fees will commence at the next renewal date which is January each year. Domain and Hosting renewal invoices must be paid within 14 days to avoid the disruption of any web services you have ordered. If you choose to use your own hosting company, we will charge you a one-off fee for installing your site on your chosen server.

Intellectual Property

We will retain the copyright of any material, including the design, created for you by us until payment of the final invoice. At this time it will become your property. A copy of the site files will be made available upon request. Some source files, such as those for some database applications, shall remain the copyright of us. The creation of marques (logos and identities for example) by us are not assumed by us to become or act as trade or registration marks on behalf of the client.

Changes made to the website by the client

Some websites have a built-in Content Management System (CMS) to provide the customer the ability to edit the content of the website. Whilst we take every care in ensuring the system is configured to allow changes to be made, we are not responsible for any errors that might occur after such changes are made by the customer. We will correct any errors deemed to have been caused by the customers' changes, but this may be chargeable at our prevailing hourly rate.

Search Engine Promotion

We are not responsible for your on-going web site promotion unless you have signed up to one of our SEO Plans. We make no guarantees about the success of any search engine promotion activity because the search engines control this. However, we will build the website with search engine optimisation in mind by using the latest search engine friendly techniques. SEO advice we may provide is not regulated and you are not obliged to take action on this advice. We are not responsible or liable for any loss or damage incurred to your business as a result of this advice.

Travel Time and Expenses

Travelling time to and from customer premises is not included in our quotation and we reserve the right to make a charge for travelling at our prevailing hourly rate of should visits to the client's premises be required.

Warranty Terms and Limitation of liability

In the case of defective services not produced or developed by us the Customer shall be entitled so far as possible to the benefit of any guarantees given by the developers and our liability shall be limited to the benefit of such guarantees the terms of which will be notified to the Customer upon request.

Upon the Customer notifying us within 5 days of completion of such works of any fault, defect, or discrepancy and upon the fault, defect or discrepancy being established to our satisfaction, we shall use our best endeavours to repair or replace such features.

We shall not repair or replace or make up shortages:

- a) if the faults or defects were caused by incorrect or negligent handling, disregard of operation instructions and/or manufacturer's instructions by the Customer or the actions of a third party;
- b) if the faults or defects were caused by fair wear and tear, accident or any other matter beyond the Business's reasonable control occurring after the date of delivery.
- c) if the faults or defects occur 30 days after the completion of the project.

We cannot guarantee that the functions contained in any web page templates or in a completed web site will always be error-free and so we can't be liable to you or any third party for damages, including lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate this web site and any other web pages, even if you have advised us of the possibilities of such damages.

In the event that we are instructed by you to host your website we shall ensure that your site will remain live however our responsibilities under an agreement to host your site do not extend to the maintenance of your site. In addition, should the site go offline as a result of a server issue then our liability to you for that shall be limited to the price you pay us each year to host your site.

Notwithstanding anything to the contrary in these Conditions, we shall not, except in respect of death or personal injury caused by the negligence of us or in respect of liability under the

Consumer Protection Act 1987 be liable in negligence, tort, contract or otherwise for damages in excess of the total price stated in the Contract.

These clauses apply to the extent permitted by the Unfair Contract Terms Act 1977 or other similarly applicable legislation. The statutory rights of the Customer are not affected.

Data Protection

We occasionally collect data during the process of carrying out a project. This data will not be shared with anyone else and will be stored in such a way as to not be available to anyone else.

Confidentiality

We will not discuss your project or share your details with any third party not involved with the development of the website.

Email and computer advice

We are not able to provide advice and support for any computer issues. If you need assistance with the configuration of your email or other computer related issues, we can offer recommendations as to whom to contact.

Force Majeure

We shall not be liable for any breach of any of our obligations to you under the Contract or for any additional cost or expense where such breach, cost or expense is wholly or mainly due to circumstances outside our reasonable control.

Insolvency of the Customer

If the Customer being a limited company, limited liability partnership or limited partnership the makes any composition or arrangement with its creditors for their benefit or has an administrator appointed, has a winding up petition presented against it or goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or if the Customer being an individual or partnership makes any composition or arrangement with his creditors for their benefit, has a bankruptcy petition presented against him or is otherwise unable to pay his debts as they fall due then without prejudice to other right or remedy available to us, we shall be entitled to cancel the Contract or suspend any further work under the Contract without any liability to the Customer and if the work has been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary or we may, at our option, re-take possession of such works and the Customer hereby

grants us a licence to enter upon any premises or land within the control of the Customer for such purpose.

Waiver

No waiver by the Business or any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision of this Contract.

No Set Off

All sums payable by the Customer under this Contract shall be paid in full without set-off or deduction (save insofar as required by law to the contrary).

Severance

If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

Third parties

For the purposes of the Contracts (Rights of Third Parties) Act 1999 and notwithstanding any other provision of this Agreement, this Agreement is not intended to, and does not give any person who is not a party to it any right to enforce any of its provisions.

Acceptance of these terms

Please sign and return the Order form; this will amount to acceptance of our terms of business whether contained in this document or our separate correspondence or both. Your continuing instructions will be taken to indicate your acceptance of our terms and conditions of business.