

# WEB DESIGN AGREEMENT

THIS AGREEMENT is made on **DATE** between TECHNIQUE WEB, TECHNIQUE PRINT GROUP LIMITED whose registered office is at 5 WILDMERE CLOSE, WILDMERE INDUSTRIAL ESTATE, BANBURY, OXFORDSHIRE, OX16 3TL with company registration number 3887452 (“the Supplier”) and (“the Customer”).

**Date:** 12<sup>th</sup> February 2017

# 1. DEFINITIONS

1.1 In this Agreement the following words and expressions shall have the following meanings:

1.1.1 “the Price” means the sums to be paid by the Customer to the Supplier as specified in the Schedule in consideration of the performance of the Project;

1.1.2 “the Project” means the design and delivery of the Website;

1.1.3 “the Specification” means the specification to be set out by the Supplier and approved by the Customer;

1.1.4 “URL” stands for uniform resource locator; and

1.1.5 “the Website” means the website to be designed by the Supplier for the Customer.

1.2 The Schedules form part of the operative provisions of this Agreement and references to this agreement shall, unless the context otherwise requires, include references to the Schedules.

1.3 Words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

1.4 The headings of the paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

# 2. INTRODUCTION

2.1 The Customer wishes to establish an Internet website to **CLIENT DOMAIN NAME**

2.2 The Supplier is engaged in business as a website designer and developer and has agreed to supply a website for the Customer upon the following terms and conditions.

# 3. DUTIES OF SUPPLIER

3.1 In consideration of the payment by the Customer of the Price and subject to the terms and conditions of this Agreement, the Supplier agrees:

3.1.1 to develop and deliver the graphical, technical and navigational design (“the Website Design”) as set out in the Specification contained in the Schedule to this Agreement;

3.1.2 to create and deliver the pages of the Website containing all text, graphics, logos, photographs, images, moving images, sound, illustrations and other materials to be featured, displayed or used in or in relation to the Website (“the Web Pages”) as set out in the Specification; and

3.1.3 to advise the Customer in relation to the Website Design and the production of the Web Pages.

3.2 Subject to Clause 3.3, the Supplier undertakes to carry out the objectives set out in Clause 3.1 in accordance with the Timetable as set out in the Schedule to this Agreement.

3.3 Where the Customer has engaged more than one supplier in the provision of brand identity, design and

development services, the delivery obligations set out in Clause 3.2 shall be conditional upon the performance of third parties as set out in the Timetable.

## 4. DUTIES OF CUSTOMER

4.1 The Customer shall deliver to the Supplier all drafts, concepts, text content, product data, graphics, logos, photographs, images, moving images, sound, illustrations and other materials for use in accordance with this Agreement in the agreed format and shall use reasonable efforts to ensure that it is correct and update it when required to do so pursuant to this Agreement.

4.2 Where the Customer has engaged more than one supplier in the provision of brand identity, design and development services, the Customer shall deliver the brand identity or design to the Supplier by the date set out in the Timetable.

## 5. DUTIES OF CUSTOMER

5.1 The Supplier shall nominate a Project Manager who shall be available to respond to the Customer's enquiries and who shall manage the Project upon the terms of this clause. The Project Manager shall act promptly and fairly at all times during the term of this Agreement and in particular shall:

5.1.1 contribute as many hours or days of work as are required from time to time for the needs of the Project in accordance with the Timetable; and

5.1.2 keep detailed records of all work carried out in relation to the Project by them or any other employee or agent of the Supplier, such records or copies thereof to be made available to the Customer on request and to remain confidential to the Supplier and the Customer.

5.2 The Customer shall nominate a Project Coordinator to this Agreement who shall be available to co-ordinate with the Project Manager and who shall provide all information and documentation required by the Supplier for the proper performance of the Project.

5.3 The parties shall ensure that the Project Manager and the Project Coordinator review the progress of the Project on a regular basis and agree a report of it.

5.4 If the Project Manager or the Project Coordinator is prevented by illness or injury from performing his duties under this Agreement, the Supplier or the Customer (as the case may be) shall report the fact and its expected duration to the other party. If the Project Manager's absence through illness or injury continues for more than 3 consecutive working days the Supplier shall make available an alternative suitably qualified and experienced Project Manager acceptable to the Customer. If the Project Coordinator's absence through illness or injury continues for more than 3 consecutive working days, the Customer shall make available an alternative suitably qualified and experienced Project Coordinator.

5.5 The Supplier shall be entitled to procure the services of any other persons with suitable skills and experience as are necessary from time to time in order to complete the Project in accordance with the Timetable.

## 6. ALTERATIONS

6.1 The Customer may at any time request alterations to the Specification by notice in writing to the Supplier.

6.2 On receipt of the request for alteration the Supplier shall, within 5 working days or such other period as may be agreed between the parties, advise the Customer by notice in writing of the effect of the alteration, if any, on the Price, the Timetable and any other terms already agreed between the parties. Any increase in the Price shall be in accordance with the standard charges of the Supplier for labour. For the avoidance of doubt, the Customer's requirement that the Supplier carry out amendments or modifications or corrective or remedial work pursuant to Clause 7 shall not constitute an alteration within the meaning of this Clause.

6.3 Where the Supplier gives written notice to the Customer agreeing to perform an alteration on terms different to those already agreed between the parties, the Customer shall, within 5 working days of receipt of such notice, advise the Supplier by notice in writing whether or not he wishes the alteration to proceed.

6.4 Where the Supplier gives written notice to the Customer agreeing to perform an alteration on terms different to those already agreed between the parties, and the Customer confirms in writing that he wishes the alteration to proceed on those terms, this Agreement shall be deemed automatically to have been amended so as to include the alteration and thereafter the Supplier shall perform this Agreement upon the basis of such amended terms.

## 7. TESTING

7.1 On completion of the Website the Supplier shall provide the Customer with a temporary URL where the Website can be viewed and tested. If the Project Coordinator in his sole discretion considers that the Website has failed in any way to perform in accordance with the Specification and/or that amendments or modifications or corrective or remedial work are required, he shall promptly advise the Supplier in writing outlining the areas which require to be modified. On receipt of this notice the Supplier shall, subject to Clause 7.2, free of charge, investigate and make the changes to the Website (including corrections or enhancements to the software used) necessary to ensure that it will perform in accordance with the Specification. Following the necessary changes the Customer shall test the Website again on the same terms as above and if no further changes are intimated by the Customer, this shall be referred to as "successful completion". For the avoidance of doubt, the Supplier shall not undertake any changes free of charge where they require the Website to operate in a manner not provided for by the Specification.

7.2 Where the Project Coordinator considers that the Website has failed and on investigation pursuant to Clause 7.1 this proves to be a result of an error by the Customer, the Supplier shall be entitled to charge for the costs of investigation and of making the changes that are necessary and agreed at the Supplier's then current price list.

7.3 The Supplier shall ensure that successful completion occurs on or before the date set out in the Timetable for completion to occur. If any delay in achieving successful completion is due to delay or error beyond the control of the Supplier, the relevant dates set out in the Timetable shall be deemed deferred as agreed.

7.4 Upon successful completion:

7.4.1 the Customer shall be required to sign the Supplier's formal acceptance form, confirming that the Supplier has successfully completed the Project under the terms of this Agreement; and

7.4.2 the Supplier shall enable the website to be visible and operational on the agreed internet domain name.

7.5 Notwithstanding any provisional acceptance or use of the Website by the Customer, final acceptance of it shall not occur until successful completion and shall be without prejudice to any of the Customer's rights set out in this Agreement.

7.6 Risk of loss or damage of any kind to the Website, the software used, the content or the documentation related to it shall pass to the Customer only upon successful completion.

## 8. PRICE AND PAYMENT

8.1 In consideration of the performance of the Project the Customer shall pay the Supplier the Price according to the Terms of Payment as specified in the Schedule to this Agreement. The Price is exclusive of VAT and shall not be subject to any adjustment or increase except as agreed in accordance with Clause 6.

8.2 The Customer shall make payment to the Supplier upon receipt of an invoice from the Supplier, all payments are to be made in pounds sterling and in the manner specified in the Schedule. Payment by the Customer of any sum under this Agreement shall be without prejudice to any claims or rights the Customer may have against the Supplier and shall not constitute any admission by the Customer as to the performance by the Supplier of his obligations under this Agreement.

8.3 The Supplier reserves the right to alter the Supplier's price list at any time but such alteration shall only take effect one month after notice has been given to the Customer.

8.4 The Supplier shall be entitled to charge interest in respect of late payment of any sum due under this Agreement, which shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 5.00% per annum above the base rate of NatWest, Banbury Branch from time to time in force.

## 9. DUTIES OF CUSTOMER

9.1 The Customer grants to the Supplier a royalty-free, worldwide, non-exclusive license to use the content supplied by the Customer for the purposes of the Project only.

9.2 Upon final payment the Supplier shall transfer the rights of the Website Design to the Customer. The

Supplier retains the right to display graphics and other web design elements as examples of their work.

## 10. WARRANTIES

10.1 The Customer warrants and represents to the Supplier that any elements of text, graphics, photos, designs, trademarks or other material supplied to the Supplier for inclusion in the Website are owned by the Customer, or that the Customer has permission from the rightful owner to use each of these elements and that the Supplier's use of such material shall not infringe the intellectual property rights of any third party.

10.2 The Supplier warrants and represents to the Customer that all works created by the Supplier in the course of the Project will, unless otherwise stated in this Agreement, be original work and not subject to any intellectual property or other rights of any third party and that the Customer's use of the Website shall not infringe the intellectual property rights of any third party.

10.3 All conditions, terms, representations and warranties that are not expressly stated in this Agreement, whether oral or in writing or whether imposed by statute or operation of law or otherwise, including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded, save for the statutorily implied terms as to title.

## 11. LIMITATION OF LIABILITY

11.1 Nothing in these terms and conditions shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.

11.2 The entire liability of the Supplier to the Customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the Price paid by the Customer under this Agreement.

11.3 In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.

## 12. TERMINATION

12.1 The Supplier shall have the right to terminate this Agreement with immediate effect by notice in writing to the Customer if the Customer fails to make any payment when it becomes due.

12.2 Either party may terminate this Agreement forthwith by notice in writing to the other if:

12.2.1 the other party commits a material breach of this Agreement and, in the case of a breach capable of

being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or

12.2.2 the other party commits a material breach of this Agreement which cannot be remedied under any circumstances; or

12.2.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or

reconstruction), or a court of competent jurisdiction makes an order to that effect; or

12.2.4 the other party ceases to carry on its business or substantially the whole of its business; or

12.2.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

12.3 The Supplier shall have the right to terminate this Agreement with immediate effect if the Customer seeks services from any third party.

12.4 Any rights to terminate this Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of this Agreement as at the date of termination.

## 13. FORCE MAJEURE

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, the act or omission of any Internet Service Provider, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

## 14. ASSIGNMENT

Neither party shall be entitled to assign or otherwise transfer this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld or delayed.

## 15. SEVERANCE

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or

unenforceable provision eliminated.

## 16. NOTICES

Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served 2 days following the date of posting.

## 17. ENTIRE AGREEMENT

This Agreement contains the entire Agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in this Agreement, this Agreement may be varied only by a document signed by both parties.

## 18. GOVERNING LAW AND JURISDICTION

This Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.