



Mutual Media UK Ltd

Terms & Conditions

Cost Variation:

Quotations are based on the current costs of production and are subject to amendment by the printer on or at any time after acceptance to meet any rise or fall in such costs.

Tax:

The printer shall be entitled to charge the amount of any value added tax or similar tax payable, whether or not included in the quotation or invoice.

Preliminary Work:

Preliminary design work and style guides produced by Mutual Media (UK) Ltd whether experimentally or otherwise, at the customer's request will be charged. The title and intellectual property of all design work remains the property of Mutual Media (UK) Ltd at all times.

Proofs:

Author's corrections, including alterations in style, and the cost of additional proofs necessitated by such corrections will be charged extra. Proofs of all work may be submitted for customer's approval, and in the event no responsibility will be accepted for any errors in them not corrected by the customer.

Delivery & Payment:

(a) Delivery of work shall be accepted when tendered and thereupon or on notification that the work has been completed payment shall become due. **(b)** Should expedited delivery be agreed and necessitate overtime or other additional cost, an extra charge may be made. **(c)** Should work be suspended at the request of or delayed through any default of the customer for a period of 30 days the printer shall then be entitled to payment for work already carried out and materials specially ordered.

Contra Payments:

Where there is reciprocal business between Mutual Media (UK) Ltd and a customer/supplier of Mutual Media (UK) Ltd, it is agreed by these terms and conditions that entering into an agreement to work with Mutual Media (UK) Ltd as a customer that the credit owed to Mutual Media (UK) Ltd will be contraed against outstanding monies in the event that the customer's company goes into administration or receivership. This takes priority over any other creditors the customer may have.

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Variations in Quantity:

Every endeavour will be made to deliver the correct quantity ordered, but quotations are conditional upon margins of 5% for work in one colour and 10% for other work being allowed for over or shortage, the same to be charged or deducted.

Claims:

Claims arising from damage, delay or partial loss of goods in transit must be made in writing to the printer and the carrier so as to reach them within three days of delivery and claims for non-delivery within 14 days of despatch of the goods. All other claims must be made to the printer within three days of delivery.

Liability:

(a) The printer shall not be liable for indirect loss or third party claims occasioned by delay in completing the work or for any loss to the customer arising from delay in transit. **(b)** Where work is defective for any reason, including negligence, the printer's liability (if any) shall be limited to rectifying such defect.

Standing Matters:

(a) Metal, film, glass and other materials used by the printer in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives and the like shall remain his exclusive property. **(b)** Type may be distributed and lithographic, photogravure, or other work effected immediately after the order is executed unless written arrangements are made to the contrary, in the latter event, rent may be charged.

Customer's Property:

Customer's property and all property supplied to the printer by or on behalf of the customer will be held, worked on, and carried at customer's risk.

Material Supplied by Customer:

(a) The printer may reject any paper, plates or other materials supplied or specified by the customer which appear to him to be unsuitable. Additional cost incurred if materials are found to be unsuitable during production may be charged. **(b)** Where materials are so supplied or specified, responsibility for defective work will not be accepted by the printer unless this is due to his failure to use reasonable skill and care. **(c)** Quantities of materials supplied shall be adequate to cover normal spoilage.

**General Lien:**

Without prejudice to other remedies, the printer shall in respect of all unpaid debts due from the customer have a general lien on all goods and property in his possession (whether worked on or not) and shall be entitled on the expiration of 14 day's notice to dispose of such goods or property as he thinks fit and to apply any proceeds toward such debts.

Reservation of Title:

Until such time as the price of the goods services has been paid to Mutual Media (UK) Ltd in full, title of the goods will remain vested in Mutual Media (UK) Ltd. Mutual Media (UK) Ltd may without notice or liability and without prejudice to any other legal remedy, repossess any goods that have not been paid for.

Illegal Matter:

(a) The printer shall not be required to print any matter which in his opinion is or may be of any illegal or libellous nature. **(b)** The printer shall be indemnified by the customer in respect of any claims, costs or expenses arising out of any libellous matter printed for the customer or any infringement of copyright, patent or design.

Force Majeure:

Every effort will be made to carry out the contract but its due performance is subject to cancellation by the printer or to such variation as he may find necessary as a result of inability to secure labour, materials or supplies or as a result of any Act of God, War, Strike, Lockout or other labour dispute, Fire, Flood, Drought, Legislation or other cause (whether of the foregoing class or not) beyond the printer's control.

Law:

These Conditions and all other express terms of the contract shall be governed and construed in accordance with the Law of England.

Interest:

The Company shall be entitled to charge interest on any due sum at the rate of 5% per month above the Base Lending Rate of its Bankers from the date of payment until the date of actual payment.

Introduction:

The Customer wishes to provide Mutual Media with data that will be hosted on Mutual Media's servers and made accessible via the Internet. Mutual Media provides web hosting services and has agreed to host the Customer's data upon the following terms and conditions.

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Definitions:

In this Agreement the following words and expressions shall have the following meanings: **(a)** "downtime" means any service interruption in the availability to visitors of the Website; **(b)** "intellectual property rights" means patents, trade marks, design rights, applications for any of the foregoing, copyright, topography rights, database rights, rights in know-how, trade or business names and other similar rights or obligations, whether registrable or not in any country; **(c)** "Mutual Media" means Mutual Media (UK) Ltd **(d)** "IP address" stands for internet protocol address which is the numeric address for the server; **(e)** "ISP" stands for internet service provider; **(f)** "server" means the computer server equipment operated by Mutual Media in connection with the provision of the Services; **(g)** "the Services" means web hosting, domain name registration, email and any other services or facilities provided by Mutual Media. **(h)** "spam" means sending unsolicited and/or bulk emails; **(i)** "virus" means a computer programme that copies itself or is copied to other storage media, including without limitation magnetic tape cassettes, memory chips, electronic cartridges, optical discs and magnetic discs, and destroys, alters or corrupts data, causes damage to the user's files or creates a nuisance or annoyance to the user and includes without limitation computer programs commonly referred to as "worms" or "trojan horses"; **(j)** "visitor" means a third party who has accessed the Website; **(k)** Words denoting the singular shall include the plural and vice versa and words denoting any gender shall include all genders. **(l)** 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.

Duties:

Mutual Media shall provide to the Customer the Services specified in their order subject to the following terms and conditions. The Customer shall deliver to Mutual Media the website and the software used in the website which is owned by the Customer, or licensed to him by a third party or Mutual Media ("the Customer Software"), in a format specified by Mutual Media.

IP Addresses:

Mutual Media shall maintain control and ownership of the IP address that is assigned to the Customer as part of the Services and reserves the right in its sole discretion to change or remove any and all IP addresses. Where Mutual Media changes or removes any IP address it shall use its reasonable endeavours to avoid any disruption to the Customer.



Charges & Payment:

(a) Payment methods include Paypal – and via Paypal, credit cards (including MasterCard and Visa) and debit cards (including Maestro (Switch), Solo, Visa Electron and Visa Delta) – standing orders drawn on a UK bank, or, for established Mutual clients with a credit account, cheque payment of invoices (30 days' credit) **(b)** The Charges are exclusive of VAT, which if payable shall be paid by the Customer. **(c)** Mutual Media 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 8% per annum above the base rate of the Bank of England from time to time in force. **(d)** From time to time Mutual Media may make enquiries on the Customer's company, proprietor or directors of the Customer's company with credit reference agencies. These agencies may record that a search has been made and share this information with other businesses. **(e)** Pro-rata refunds will not be issued for yearly services that are cancelled before the end of the year. **(f)** Should your chosen payment method fail Mutual Media will attempt to settle your invoice using any other payment facilities available on your account. **(g)** All services will renew until cancelled by the customer. Mutual Media emails the customers primary email address prior to renewal of services, it is the customer's responsibility to cancel services prior to renewal as no refund can be made once renewal has occurred. **Customers must notify us at least 30 days before a service is renewed if they wish to cancel that service.** The cancellation process must be fully completed by you before your account is cancelled.

Software Licence & Rights:

If the Customer requires use of software owned by or licensed to Mutual Media in order to use the Services, Mutual Media grants to the Customer and its employees, agents and third party consultants and contractors, a royalty-free, world-wide, non-transferable, non-exclusive licence to use Mutual Media Software in object code form only, in accordance with the terms of this Agreement. For the avoidance of doubt, this Agreement does not transfer or grant to the Customer any right, title, interest or intellectual property rights in Mutual Media. In relation to Mutual Media's obligations under this Agreement in connection with the provision of the Services, the Customer grants to Mutual Media a royalty-free, world-wide, non-exclusive licence to use the Customer Software and all text, graphics, logos, photographs, images, moving images, sound, illustrations and other material and related documentation featured, displayed or used in or in relation to the website ("the Content"). For the avoidance of doubt, this Agreement does not transfer or grant to Mutual Media any right, title, interest or intellectual property rights in the Customer Software or the Content. The Customer undertakes that they will not themselves or through any third party, sell, lease, license or sublicense Mutual Media Software. Mutual Media may make such copies of the Customer Content as may be necessary to perform its obligations under this Agreement, including back up copies of the Content. Upon termination or expiration of this Agreement, Mutual Media shall destroy all such copies of the Content and other materials provided by the Customer as and when requested by the Customer.

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Service Level & Data Backup:

Mutual Media shall use its reasonable endeavours to make the server and the Services available to the Customer 100% of the time but because the Services are provided by means of computer and telecommunications systems, Mutual Media makes no warranties or representations that the Service will be uninterrupted or error-free and we shall not, in any event, be liable for interruptions of Service or downtime of the server. Utilising state-of-the-art technology we have built a web hosting platform that is second to none. Our platform is designed in such a way that if any server fails, another server automatically and without delay takes over that server's workload. For example, if one of our mail servers breaks down, another server automatically comes online with all the correct configuration, and takes over the work of the failed server. During this period no email is lost. As well as this, all data is stored in two large network disk arrays. Data is automatically synchronised between the arrays so that in the event of an array failing, the remaining array continues to serve data to the servers with no downtime. Each array is also backed up each night to a separate backup cluster which is then written to tape and stored offsite. Our backup procedure goes above and beyond the majority of web hosting companies. For websites hosted under the **managed basic hosting plan**, Mutual Media carries out complete server data backups as described above for its own use in restoring servers in the event of systems failure, but Customers are responsible for taking their own backups of their Content including all website files and databases. Customers are provided with access to a hosting control panel through which such backups may be made easily. Under the standard hosting plan, Mutual Media does not include a data restoration service for individual customers, though this may be requested for a fee. Even though every effort is made to ensure data is backed up correctly, Mutual Media accepts no responsibility for data loss or corruption. For websites hosted under the **managed CMS hosting plan**, Mutual Media will make and retain on behalf of the Customer a regular offsite backup of all Content including all website files and databases. Upon Customer request, a copy of these backups can be made available or copied to a specified location. Even though every effort is made to ensure data is backed up correctly, Mutual Media accepts no responsibility for data loss or corruption. Under the enhanced CMS hosting plan, Mutual Media will also endeavour to apply on a timely basis (and as applicable) all core Drupal, WordPress or Joomla CMS security patches and updates, as well as updates to any third-party components and plugins where requested by the Customer.

Acceptable Use Policy:

The website and use of the Services may be used for lawful purposes only and the Customer may not submit, publish or display any content that breaches any law, statute or regulation. In particular the Customer agrees not to: **(a)** Use the Services or the website in any way to send unsolicited commercial email or "spam", or any similar abuse of the Services; **(b)** Send email or any type of electronic message with the intention or result of affecting the performance of any computer facilities; **(c)** Publish, post, distribute or disseminate defamatory, obscene, indecent or other unlawful material or information, or any material or information which infringes any intellectual property rights (for the avoidance of doubt this includes licensed software distributed as Warez), via the Services or on the Website;

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(d) Threaten, abuse, disrupt or otherwise violate the rights (including rights of privacy and publicity) of others; engage in illegal or unlawful activities through the Services or via the Website; **(e)** Make available or upload files to the website or to the Services that the Customer knows contain a virus, worm, trojan or corrupt data; or **(f)** Obtain or attempt to obtain access, through whatever means, to areas of Mutual Media's network or the Services which are identified as restricted or confidential. This includes leaving your home directory whilst using SSH access to servers. **(g)** Operate or attempt to operate IRC bots or other permanent server processes. **(h)** The Customer has full responsibility for the content of the Website. For the avoidance of doubt, Mutual Media is not obliged to monitor, and will have no liability for, the content of any communications transmitted by virtue of the Services. **(i)** If the Customer fails to comply with the Acceptable Use Policy outlined, Mutual Media shall be entitled to withdraw the Services and terminate the Customer's account without notice.

Alterations & Updates:

All alterations and updates to the website shall be made by the Customer using the online account management facility, FTP access or SSH access where available. The Customer will be issued with a user name and password in order to access the account. The Customer must take all reasonable steps to maintain the confidentiality of this user name and password. If the Customer reasonably believes that this information has become known to any unauthorised person, the Customer agrees to immediately inform Mutual Media and the password will be changed.

Warranties:

The Customer warrants and represents to Mutual Media that Mutual Media's use of the Content or the Customer Software in accordance with this Agreement will not infringe the intellectual property rights of any third party and that the Customer has the authority to license the Content and the Customer Software to Mutual Media. 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. In particular and without prejudice to that generality, Mutual Media shall not be liable to the Customer as a result of any viruses introduced or passed on to the Customer.

Indemnity:

The Customer agrees to indemnify and hold Mutual Media and its employees and agents harmless from and against all liabilities, legal fees, damages, losses, costs and other expenses in relation to any claims or actions brought against Mutual Media arising out of any breach by the Customer of the terms of this Agreement or other liabilities arising out of or relating to the Website.



Limitation of Liability:

Nothing in these terms and conditions shall exclude or limit Mutual Media's liability for death or personal injury resulting from Mutual Media's negligence or that of its employees, agents or sub-contractors. The entire liability of Mutual Media 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 charges paid for the Services under this Agreement in respect of which the breach has arisen. In no event shall Mutual Media 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 Mutual Media had been made aware of the possibility of the Customer incurring such a loss.

Term & Termination:

This Agreement will become effective on the date the service is ordered and shall continue until terminated by either party in writing with 30 days' notice of its intention to terminate the Agreement. **(a)** Mutual Media 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. **(b)** Either party may terminate this Agreement forthwith by notice in writing to the other if: **(c)** 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 **(d)** The other party commits a material breach of this Agreement which cannot be remedied under any circumstances; or **(e)** 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 **(f)** The other party ceases to carry on its business or substantially the whole of its business; or **(g)** 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. **(h)** 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. **(i)** On termination all data held in the customer's account will be deleted.

Assignment:

Mutual Media may assign or otherwise transfer this Agreement at any time. The Customer may not assign or otherwise transfer this Agreement or any part of it without Mutual Media's prior written consent.

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.

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**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.

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 two days following the date of posting.

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. This Agreement may be updated without notice.

Domain Name Registration:

Domain names are not deemed to be successfully registered until they appear in the relevant whois database of the top level domain name registrar. In the event that a domain name is unavailable when we attempt to register it Mutual Media will provide a full refund for that domain name, this will be the full limit of our liability. **(a)** Please return to the main terms and conditions area of this website to view terms and conditions for individual domain name registrars. **(b)** Mutual Media will make reasonable endeavours to renew domains where the renewal fee has been paid. In the event that we are unable to renew a domain name and that domain name is subsequently lost, the limit of our liability shall be the renewal fee for that domain name.

Scripting:

Mutual Media is not responsible for customer programming issues other than ensuring that programming languages such as Perl, PHP, Python, Miva and ASP are installed and functioning on the web hosting system.

Privacy:

To protect your privacy we will not distribute your details to third parties, unless required to do so by law.

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**Bandwidth:**

Web hosting accounts include unlimited bandwidth, subject to the following fair usage provision: accounts that host file distribution (including but not limited to music, video and software) are limited to a maximum bandwidth of 25 GB per month for file distribution. Web hosting accounts are prohibited from hosting hardcore pornographic material, hosting graphics or scripts for other websites, storing pages, files or data as a repository for other websites or as a backup, giving away web space under a domain, sub domain or directory.

Server / Web Space Usage:

Should your web hosting account use more than 5% of the servers processing power and as a result have a detrimental effect on other customers we will discuss with you alternative solutions for your hosting requirements. Mutual Media does not allow proxy sites of any nature to be hosted on its network. Unlimited web space offered on web hosting packages is available for genuine web site content, content must be linked into web pages. Customers are prohibited from using the server as a file/backup repository. Customers are expected to employ good housekeeping when maintaining their account.

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