

General Terms and Conditions

General revision 18th February 2010

All services provided for our customers are subject to our standard Terms and Conditions which are outlined below.

IMPORTANT: This agreement sets out the terms on which Valhalla Web Media Services, trading as ValhallaHost, Valhalla Web Media Services and Valhalla Webs ("the Company") is prepared to provide services to you ("the Customer")

1 Definitions

"Fees" means the charge for the provision of the Services as set out in the Project Proposal or such other charge as is otherwise agreed from time to time between the parties.

"Intellectual Property" means all copyrights, moral rights, related rights, patents, trade marks, trade names, service marks, design rights, database rights, rights to domain names, and other similar intellectual property rights (whether registered or not) and applications for such rights as may exist anywhere in the world whether in relation to the design of the Site, its architecture, any logos or artwork or any software or source codes originated by the Company.

"Materials" means all Software, manual and other documentation (where the content allows) developed or supplied pursuant to the Agreement in each case in machine and/or human readable form.

"Project Proposal" means the document provided by the Company (if any) setting out the proposal for the Services to be provided to the Customer by the Company.
The 'Project Proposal' may be in written or verbal form.

"Services" means the concept, design, build, delivery and provision of the web site, hosting facilities or other services in accordance with the specifications set out in the Project Proposal or as otherwise agreed from time to time between the parties.

"Site" means the Customer's web site.

"Software" means all software (including all HTML, JavaScript, Visual Basic, Java, VBScript, Transact-SQL, SQL and any other system) affecting the performance or use of the site, whether or not written by the Company (all preparatory design materials, modifications, updates and enhancements to it) required for the purpose of this Agreement.

"Timetable" means the timetable set out in the Project Proposal or as otherwise agreed from time to time between the parties.

"Consultation" means the verbal or written advice given or exchanged during or prior to the period of any contract between the "Company" and the "Customer"

"TLD" means Top Level Domain as defined by the recognised registry services UK and worldwide.

1.1 Words denoting the masculine gender include the feminine and neuter and vice versa and words denoting the singular include the plural and vice versa.

1.2 The headings in the this Agreement are for convenience only and shall not affect interpretation.

2 Service and Terms and Conditions

2.1 The Company will deliver the Services and Materials and provide to the Customer any other services agreed in writing from time to time between the parties and use its best endeavours to ensure that these are delivered and provided in accordance with the Timetable.

2.1.1 These Terms and Conditions of Sale apply to all transactions for the sale of goods and services by the company. They do not affect your statutory rights. We may change these Terms and Conditions at any time. Any changes will take effect on the date they are posted on the website and are effective immediately unless consultation has been effected earlier.

2.2 The company reserves the right to withdraw Consultation services offered on a selective criteria if it deems these services to have been misused, abused or misrepresented. No right or liability is inferred, offered or accepted in respect of advice given in which subsequently leads to loss, misuse, or any other detriment to the Customer.

2.3 The company reserves the right to decline services to clients, prospective or current, if the said proposed requested services could be considered detrimental to the interests of existing clients or where a conflict of interest is actual or perceived.

2.4 The company reserves the right to terminate services offered to existing clients where those services are deemed no longer cost effective.

3 Fees and Pricing

3.0 The company reserves the right to adjust prices, offers, goods and specifications of goods at our discretion at any time before (but not after) payment of a deposit or other fees, not including hosting or domain registrations, has been made.

3.01 The company reserves the right to recover expenses incurred due to by the lack of reasonable response by the customer. Complete or incomplete web design work, or other services, may be disposed of unless a deposit has been placed.

3.02 The company reserves the right to impose a nominal admin charge for reinstatement of services lapsed due to non-payment prior to the due renewal date.

3.1 The Customer shall pay the Company the Fees.

3.1.1 Payment in full implies explicitly that the Customer accepts completion of the project proposal or other services as agreed.

3.2 All sums due shall be paid within 14 days of final invoice.

3.3 Upon acceptance of the Project Proposal by the Customer the Customer shall pay to the Company, if demanded, a non-refundable deposit of 20% of the total estimated cost of the project. The deposit may be lost, at the company's discretion, should progress on the site not be possible due to the inactivity of the client within 3 months of the deposit receipt date.

3.3.1 Any features deemed as additional to the existing quote are subject to an additional cost. In these circumstances, the company will give notice prior to implementation and seek agreement of the additional cost. An invoice for 50% of the costs of these additional features will be issued with payment due within 14 days. The remaining 50% will be added to the final invoice.

3.3.2 The cost of hosting, domain names, and other third party services require immediate payment and are non-refundable in their entirety.

3.4 The Company reserves the right not undertake any work on the Services until it has received the deposit required under clause 3.3.2 above. Hosting and/or Domain Name acquisition may not be actioned until all monies due, or an agreed percentage thereof, is received.

3.5 The Company reserves the right to increase the Fees if changes to the Services are required by the Customer which depart from the original Project Proposal or any instruction given by the Customer to the Company.

3.6 If the Customer cancels this Agreement at any time before the completion of the Services the Customer shall pay (a) any fees that would have been charged by the Company to that date and (b) any payments the Company has made or has contracted to make or liabilities incurred to any third parties in relation to the Site or the Customer.

3.7 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a compounded daily rate 2.25%. Failure to raise an invoice in respect of interest shall not be deemed to constitute a waiver of our rights to recover interest.

3.8 The Company will use its best endeavours to produce designs and software that substantially meet the Customer's specifications. If the Customer rejects designs produced according to those specifications for aesthetic reasons or if the Customer changes their original specifications in light of the work produced, the Company reserves the right to charge extra for redoing the work.

3.9 [This item published in previous Terms no longer applies]

3.9.2 Payments made by PayPal and other gateway payment systems may attract a surcharge.

4 Confidentiality

4.1 Each party agrees to keep all information about the other's business ("Confidential Information") strictly confidential, not to use or copy Confidential Information save as agreed in writing with the other party; and to procure that all persons to whom it discloses Confidential Information are bound by the terms of confidentiality at least equivalent to this.

4.2 This clause 4 shall not apply to either party in relation to information that (other than by breach of any duty of confidence) has come into the public domain; is obtained from a third party or was already known to that party before the Agreement; or is required to be disclosed by order of a court of competent jurisdiction.

5. Intellectual Property

5.1 The Customer shall have sole title and ownership of all Intellectual Property Rights previously held by the Customer and all Intellectual Property Rights created or developed by themselves. The Company shall have sole title and ownership of all Intellectual Property Rights created or developed by the Company in the provision of the Services or contained in any of the Materials, unless stated otherwise.

5.2 The Company will grant to the Customer, once all Fees have been paid, a non-exclusive royalty free licence to use the Intellectual Property in connection with the Site. This licence is personal to the Customer and cannot be assigned or transferred to any person (including, for the avoidance of doubt, any group company or associate of the Customer) without the prior written consent of the Company.

5.3 The Customer hereby irrevocably and unconditionally indemnifies and shall hold fully indemnified the Company from and against any and all actions, proceedings, losses, damages, liabilities, obligations, costs, claims, charges and expenses suffered by the Company of whatsoever nature arising out of or in connection with the Company's use of any materials supplied to it by the Customer in the course of its performance of its obligations relating to the design of the Site (including but not limited to any related copyrights, trade secrets, trade names, patents, intellectual property rights or obscenity laws in any country of jurisdiction in which the content of the site can be reviewed or retrieved).

5.4 The Customer hereby grants the Company an irrevocable licence to use images or extracts from the Site for promotional purposes for the Company and on its own web site together with a link to the Customer's site.

5.5 It is a condition of this agreement (and has been taken into account in assessing the Fees) that the Company will be credited on the site as its creator, if requested by the Company. The company will not include crediting for website transfers.

5.6 The Customer hereby agrees to accept and be bound by any contractual or licensing obligations relating to third party software or server resident software supplied by the Company within the Companies Terms and Conditions or the Terms and Conditions pertaining to the third party originating the said content. The Customer must conform to any licensing conditions for software which is deemed to be the intellectual property of a third party.

5.7 From time to time, the Company may advise the Customer to obtain software or services external to the Company for the purposes of completing a required demand. This may occur where the Company or Customer would be disadvantaged by the necessary acquisition through the Company. Under these circumstances the company will endeavour, but not be obligated to, assist the Customer in all aspects relating to the requirement, but will under NO CIRCUMSTANCES be held responsible or considered liable for the involvement of third party licensed or copyrighted material installed or provided for on any of the Companies facilities.

It is the responsibility of the Customer to ensure that all copyrights and other legal rights pertaining to any software installed, recommended, or in connection with any contract, pending or actual, are upheld in a manner compliant with UK statute law.

6 Term

6.1 Either party may terminate this Agreement without notice.

The customer is required to pay all fees due up to the termination date.

The company may consider at its discretion a refund of deposits paid.

The cost of hosting, Domain Names and other third party services are paid upfront on behalf of the customer and are not refundable.

6.2 Either party may terminate this Agreement in the event that the other convenes a meeting of its creditors (or if a proposal is made for any composition, scheme or arrangement for the benefit of creditors); becomes unable to pay its debts as and when they fall due determined; commits an act of bankruptcy or if a trustee, receiver or administrative receiver is appointed in respect of all or part of its business or assets; or has a petition presented against it for the purpose of considering a resolution or other steps are taken for the winding up of the other party (other than for the purposes of solvent amalgamation or reconstruction).

6.3 The rights and obligations of the Company and the Customer contained in clauses 4 and 5 shall survive any termination of this Agreement. Termination of this Agreement shall be without prejudice to any rights which have accrued to either party prior to termination.

6.4 Acceptance of these terms will apply to the services offered and agreed upon. The company is not obligated to the supply of further services or the continuance of existing services, beyond that already agreed for which payment has been received.

7 No Warranty, Disclaimer of Liability and Indemnity

Whilst every effort has been made to ensure the high quality and accuracy of the Site, the Company makes no warranty, express or implied concerning the Site, software or products or services available through the Site (the "Site Services"), which are provided "as is". In no event will the Company, its affiliates or other suppliers be liable for direct, special, incidental, or consequential damages (including, without limitation, damages for loss of business profits, business interruption, loss of business information or other pecuniary loss) arising directly or indirectly from the use of (or failure to use) or reliance on the Site Services, even if the Company has been advised of the possibility that such damages may arise. The Company does not guarantee the accuracy, content, or timeliness of the Site Services or that they are free from viruses or other contaminating or destructive properties.

In no event will any liability of the Company, its affiliates, agents and licensors to you (and/or any third party) arising out of any kind of legal claim (whether in contract, tort, or otherwise) in any way connected with the Site Services or breach of these Terms by The Journal of Commerce exceed the amount, if any, paid by you to the Company in respect of the particular Site Service to which the claim relates.

Upon the Company's request, you agree to defend, indemnify and hold harmless the Company from any claims and expenses, including reasonable legal fees, related to any breach of these Terms by you or your use of any Site Services.

8 Force Majeure

Though every effort will be made to carry out the contract the Company shall be under no liability if it shall be unable to carry out any provision of the Agreement for any reason beyond its control including (without limiting the foregoing) Act of God, war, strike, lockout or any other labour dispute, fire, flood, drought, failure of power supply, legislation, failure of third parties to supply software, design work or other materials or facilities or other cause beyond the control of the Company. During the continuance of such a contingency the Customer may by written notice to the Company elect to terminate the Agreement and pay for Services rendered and Materials used, but subject thereto shall otherwise accept delivery when available.

9 General

9.1 If any provision of the Agreement is held invalid, illegal or unenforceable for any reason, 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 executed with the invalid provision eliminated. In the event of there being any invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the parties shall immediately commence good faith negotiation to remedy such invalidity.

9.2 The registration or obtaining of any domain name for the Customer shall be subject always to the relevant terms and conditions of the relevant registrar and shall be subject to any third party claims there may be in respect of trademark, copyright, and/or passing off and the Customer acknowledges and warrants that it has made all investigations and considered any competing claim there may be to or in respect of the name by third parties whether in the UK or elsewhere.

9.3 The Customer undertakes that it will not during the term of this agreement and for 12 months after completion of the Services or earlier termination of this agreement in accordance with clause 6 hereof (whichever is the later) either alone or in conjunction with or on behalf of any other person, directly or indirectly seek to entice away, solicit or engage any person who was during the term of this agreement an employee or consultant of the Company or was otherwise engaged by the Company and was involved in any way in the provision of the Services. Whilst both the Customer and the Company agree that this restriction is reasonable in all the circumstances it is agreed that if a court of competent jurisdiction considers that the restriction is invalid but would have been valid if either the period or its scope were reduced then the restriction will continue to apply with such limitation or limitations necessary to enable its validity.

9.4 The failure by either party to enforce at any time or for any period any one or more of the terms and conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

9.5 This Agreement is subject to English law and to the exclusive jurisdiction of the English courts.

3.6 Where provided, Privacy Statements and Terms and Conditions will be approved by the Customer prior to publication of the web site. Publishing errors and omissions to the said Privacy Statement and Terms and Conditions will be corrected within 30 days of publication, however no liability will be accepted for loss or damage or other detriment to the Customer arising from any such errors or omissions whatsoever.

10 Special conditions

No special conditions apply to this set of terms and conditions.

11 Warranty and Support

11.1 Errors in web design or implementation carried out under this agreement will be corrected during the 21 day period following sign off.

11.2 After the 21 day warranty period the Customer may expect to receive technical support as appropriate by phone or email or other such means subject to the services supplied. If the level of support required is high the Company reserves the right to charge for it.

Phone support/contact is reserved for contracted clients only.

11.3 Amendments, corrections, alterations, additions, and deletions required as a result of Content Manager System misuse, lack of use, inability to use (including lack of basic computer skills) and not exclusively, lack of adherence to supplied documentation by the client will be charged at the prevailing hourly rate.

12 Hosting and Email Services

12.1 The Company reserves the right to sub-contract hosting services and may change this sub-contractor without giving notice. The Company does not guarantee continuous service and will accept no liability for loss of service, whatever the cause. The Company may change the type of hosting account used for customer's whose site uses an unusually high level of bandwidth. If additional fees become payable, the Company will give the customer 14 days notice. The Company will not guarantee to host any site that causes detriment to the operation of any other sites or systems. Technical Support offered within hosting packages relates solely to the hosting facility and not to the server side content.

12.2 The Company will not be held responsible for loss of email data howsoever caused. It is the responsibility of the client to backup or otherwise secure important email communications.

12.3 Hosting and Email management is limited to the maximising of uptime and quality of service and excludes website content alterations and other such amendments or configurations unless agreed previously or covered under a general management contract.

13 Domain Names

13.1 The company will seek to acquire Internet domain names requested by the client on receipt of full payment in advance. UK Domain names become freely transferable 2 yrs following registration. Transfer of UK domain names prior to this period will incur a transfer charge.

The company accepts no liability for the non-availability of any domain name due to unexpected or unforeseeable delays howsoever caused.

The company reserves the right not to register domains which may infringe the intellectual rights of a third party, are offensive, or are liable to cause questionable activity.

14 Optimisation

14.1 The Company does not guarantee or otherwise infer any warrantee as to the placement level achieved within third party search engine software as a result, directly or indirectly, of a paid for promotional campaign or optimisation process. Optimisation refers only to the optimisation of the specified web product in accordance with technology prevailing at any one time.

14.2 Selection of the search words.

For the optimisation, the company may use freely selectable terms, words or phrases which are directly or indirectly connected with the client's business sectors, products, goods or services. The list of usable search terms can be agreed with the client before optimisation is carried out. The language can also be agreed in advance. Combinations of more than one language are possible.

14.2.1 Client derived keywords/phrases

Where the client specifically requests keywords and/or keyword phrases which are not deemed appropriate or compatible with the associated project, the company will advise the client of such findings and offer alternative suggestions.

14.2.2 Keyword/phrase performance

Keyword/phrase performance is governed by the behaviour of search engines and other such Internet technologies and cannot be predicted or guaranteed.

No liability will be accepted for the lack of performance in any given situation.

14.3 External links.

The company may generate new external links to the client's homepage within the framework of its services, irrespective of whether the external links is in search engines or on other web servers in internet. The client does not have a claim to a certain method of presentation of these links nor to a continuance of these links after a contract with the company has been terminated. The client is liable for any violations on the part of these links against the rights of third parties.

15 Site Promotion

15.1 Where the customer has agreed for the company to promote using an 'Exchange Links' campaign, the company will not be held liable for the content of any reciprocal links provided by third parties. The customer should be aware that reciprocal links may lead to the promotion of competitor sites.

15.2 Where the customer has agreed to enlist the services of a 'pay per click' scheme or any other such chargeable scheme, the company does not accept any responsibility for any lack of expected performance from such campaigns.

15.2.1

Pay-per-click campaigns are operated by the company on behalf of the client. The company operates a pooled Adwords system which is designed to maximise the return to all clients enlisted into the system. The company is not obliged to supply the client with formal reports generated by the pooled Adwords system or other 'pay per click' campaigns.

15.2.2

Financial Services - The company is not regulated by the FSA and does not provide financial advice. Monies received for promotional activities will be allocated in full, less a handling fee, to the schemes agreed with the client. Surplus funds will be credited to the clients account.

15.3 Unless otherwise stated, promotional campaigns run for whole calander months. Refunds for 'part month' promotions are not possible.

15.4 The Company reserves the right to include placement advertisements on the client's website. All revenue received from any placement advertisements is the sole property of the Company but may be used to offset client charges at the companies discretion.

15.4.1 Neither the Company or Client will be held liable by a third party for the performance, lack of performance, lack of perceived performance, or lack of term for paid placement advertisements. Maximum limitation is restricted to a refund not exceeding the pro-rata period of funds paid over the previous 12mths..

15.5 Placement advertising used to subsidise ongoing website promotion will not exceed 30% of the total advertising units published. An advertising unit is defined as a link from the client's website to a website of a

commercial nature. The client may request withdrawal of subsidised advertising at any time but may be liable to compensate the company for any subsequent losses involved.

16 Content Management System - CushyCMS

These terms are applicable to clients accessing the CushyCMS website as part of a service provided by Valhalla Web Media Services.

16.1 By accessing the CushyCMS website ("Site") or using the services offered by CushyCMS ("Services") you agree and acknowledge to be bound by these Terms of Service ("Terms"). If you do not agree to these Terms or to our Privacy Policy, please do not access the Site or use the Services. CushyCMS and Valhalla Web Media Services reserve the right to change these Terms at any time. We recommend that you periodically check www.valhalla-webs.co.uk and www.cushycms.com for changes.

16.2 Usage License

CushyCMS grants you a limited license to access the Site and use the Services in accordance with these Terms and the instructions and guidelines posted on the Site. CushyCMS reserves the rights to terminate your license to use the Site and Services at any time and for any reason or in the future charge for commercial usage.

16.3 User Responsibility

You are solely responsible for your use of the Site and Services. CushyCMS allows for the posting of content to third-party websites. The third-party websites' content, business practices and privacy policies are not under our control, and we are not responsible for the content of any third-party website or any link contained in a third-party website.

16.4 Security

CushyCMS accesses and stores sensitive website login data as part of its daily operations. While we will take every reasonable precaution to secure these details (including the use of database data encryption), we will not accept any responsibility or liability for actions that may result from this data being intercepted or accessed by an unauthorized third-party.

16.5 Other

CushyCMS PROVIDES THE SITE AND SERVICES "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. CushyCMS SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, INFORMATION ACCURACY, INTEGRATION, INTEROPERABILITY OR QUIET ENJOYMENT. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to you.

16.6 You understand and agree that you use the Site and Services at your own discretion and risk and that you will be solely responsible for any damages that arise from such use. UNDER NO CIRCUMSTANCES SHALL CushyCMS BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND, OR ANY OTHER DAMAGES WHATSOEVER (HOWEVER ARISING, INCLUDING BY NEGLIGENCE), INCLUDING WITHOUT LIMITATION, DAMAGES RELATED TO USE, MISUSE, RELIANCE ON, INABILITY TO USE AND INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SITE OR SERVICES, DAMAGES INCURRED THROUGH ANY LINKS PROVIDED ON THE SITE AND THE NONPERFORMANCE THEREOF AND DAMAGES RESULTING FROM LOSS OF USE, SALES, DATA, GOODWILL OR PROFITS, WHETHER OR NOT CushyCMS HAS BEEN ADVISED OF SUCH POSSIBILITY. YOUR ONLY RIGHT WITH RESPECT TO ANY DISSATISFACTION WITH THIS SITE OR SERVICES OR WITH CushyCMS SHALL BE TO TERMINATE USE OF THIS SITE AND SERVICES. Some states do not allow the exclusion of liability for incidental or consequential damages, so the above exclusions may not apply to you.

16.7 CushyCMS and you are independent entities, and nothing in the Terms, or via use of the Site or Services, will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between CushyCMS and you.

16.8 These Terms supersede any previous agreement and represent the entire agreement between CushyCMS and you. These Terms are governed by the laws of the State of New York without reference to conflict of laws principles. If any provision of the Terms is adjudged to be illegal or unenforceable, the continuation in full force of the remainder of the Terms will not be prejudiced, and the illegal or unenforceable provision of the Terms shall be severed accordingly.

17 Referrals and promotions

15.1 The company may, from time to time, offer suitable reward for customer referrals leading to increased paid business.

15.2 Reward payment is discretionary and may be made in monetary form, or as goods and services.

15.3 Rewards will not be issued until the referred business has completed a valid business transaction and monies duly received and cleared.

15.4 The company is under no obligation to conduct business with potential new clients and may reject such requests without notice or explanation.

15.5 The company reserves the right to withdraw reward based schemes without notice.