



## **Ibis Marketing Limited**

### **Terms and Conditions January 2014**

This document sets out the terms and conditions between your business and Ibis Marketing Ltd (herein called 'Ibis') and forms an integral part of any existing or future proposal or other written document or communication between your business and Ibis. The primary purpose of these terms and conditions is to minimise any potential misunderstandings and to clearly state the design and build phases of each project and set out the timings as to when stage payments are due.

If any term or condition appears unreasonable this is not our intention. We have a large client portfolio that has been built through mutual respect and by providing good quality customer care and support. We are always striving to improve our services and your feedback will always be welcome.

#### **Payment terms**

Unless otherwise agreed in writing by Ibis, our payment terms are strictly 14 days from the date of invoice.

Unless otherwise agreed in writing, each design project will consist of two stage payments commencing with a non refundable deposit of 40% with the balance of 60% being payable on completion of each project.

Please note that we will not commence work on your project until the 40% deposit payment has been received by us. No final artwork will be released until payment in full has been received.

Where a project is delayed outside of the agreed time scales through no fault of our own (see sections 'Design schedule') we reserve the right to invoice you and receive payment for the remaining balance of 60% of the project.

All payments for regular ongoing costs such as hosting and search engine optimisation should be paid by standing order.

#### **Design Process**

Upon commission, Ibis will instigate the following design process to ensure the smooth running of your project.

##### **Stage 1 – Project Planning**

- A member of our team will contact you to discuss the project and determine project goals
- Following this, we will supply you with a written brief detailing the project aims and objectives.
- At this stage we will also request any information / material required to complete the project.
- Milestones in terms of key stages within each project together with dates.
- Date of release of the final draft of the corporate / visual identity, design for website, development of website architecture, first draft copy etc
- Date for final review must be completed by:
- Date for release of the media artworks and launch of website etc.

The design brief will be set out in writing and agreed between us. It is essential to the success of each project that both parties commit to keeping to the specification of this brief and that requested material is provided to us on or before the agreed dates. We are a busy office that has to plan work around a start and finish date. If we are delayed by not having decisions or materials on or before certain dates there is no guarantee that we will be able to make up the time or when we will be able to restart the work.

If for any reason the design brief is amended during a project, this will impact on the entire project's timetable and overall cost. Where this is the case, Ibis will advise you of any cost implications arising from the specification changes.

## **Stage 2 – Design Production**

Once you have signed off the design brief, Ibis will begin visual production of your project. This will follow the route below as standard for all projects and aspects thereof:

- Our design team will create the initial concepts for the look and feel, inline with the design brief.
- After you have reviewed the concepts you provide your first set of feedback notes.
- The Ibis design team then re-supply you the amended designs.
- You then have your second and final opportunity for design changes.
- Our design team then supplies your final design for you to approve and sign off.
- Further changes after this stage can be made, but these will then be charged at our standard hourly rate.
- Where a project runs to several items such as a logo, brochure and website, the above process is repeated for each project stage.
- When designing a multilevel project such as a brochure or website, you the client will be presented with a further feedback stage, and will be presented as a draft version of the product for any final amends. These amends must be supplied in a single feedback document by you. After making the changes set out in the final changes document the project will be deemed to be signed off and ready for launch. Any further changes requested after this stage will then be charged at our standard hourly rate.
- On receipt of your balance payment of 60% the final artwork will then be released / published.

## **Ecommerce and database driven websites**

Where the project includes e-commerce or database driven features and functionality then unless specifically agreed in writing by us, any input of products, images, data or the transfer of data into the database will be entirely separate and additional cost to the quoted project cost.

## **Hosting and Email services**

Our web servers are co-located onto a managed server network. Servers are Linux based and are installed with the latest software to ensure your site runs smoothly and efficiently. Software is always kept up to date with appropriate security and functionality patches. Sites are backed up daily. For this fully managed service we charge a very competitive rate depending on the likely bandwidth of your site.

For this reason, Ibis requires to be paid monthly in advance and we would suggest that payments are paid by regular standing order. (Form available on request)

## **Cross service default clause**

All of our invoices are subject to the following cross service default clause:  
Any invoices issued by Ibis in the past, present or future irrespective of the work or services provided or contained within the invoice, if not paid within the invoice payment terms, could result in the website/s being disconnected without notice. No other work or service will be carried out until the defaulting invoice is paid.

These payment terms are necessary so that we can provide you with a high level of service ensuring your site has a 99.8% uptime and that our work and time is focussed on marketing your business in accordance with Ibis's terms of reference with you.

## **Training**

Unless specifically included in our proposal document, outside of any other payments that are agreed, all training will be charged at our standard hourly rate together with a charge for travelling time and any associated costs.

## **Additional Software and Hardware**

It is your responsibility to ensure that you have the appropriate software, valid software licences and computer hardware that you might need to use or operate any of the services that we provide you.

## **Internet Hosting Server Support**

Ibis provides technical support Monday to Friday 9-5pm. Our technicians constantly monitor our internet servers and carry regular maintenance and upgrades as required to keep them at optimum performance and serviced condition. Websites are backed up every 24 hours.

Ibis has control of its own servers and will not allow a server to host more than a very strict number of sites that amount to an acceptable level of bandwidth. This means that we ensure your site's pages and products will be delivered without any delay being caused by the internet server being too busy, inadequate available bandwidth or being otherwise overloaded. Ibis monitors the load on the servers every day to ensure that when our client's sites service and site access levels always remain high. This is of great importance to you as it will avoid visitors to your website becoming frustrated due to the server being too slow or failing due to capacity overload.

Should any problem occur with our Internet servers Ibis will undertake to rectify the problem immediately and will continue to work on the problem until it is completely resolved. In this unlikely event and during this time Ibis cannot accept any responsibility for any loss of sales or business whilst the site is offline or affected by the problem.

Ibis also offers dedicated servers for ultra busy sites and high availability servers for critical demand. This in effect requires two servers running simultaneously from two different sites and should anything happen with one server or its facility the other server automatically takes over.

Our Internet servers use server side components and software that is widely available to all other hosting companies operating on a Linux based platform. If you elect to organise your own hosting, we cannot guarantee that your site's programmed elements will function on other servers unless they also are running these components which are correctly configured.

## **Hosting Charging Structure**

Unlike most other hosting companies, Ibis does not generally make additional charges related to the file size of your site or make additional charges related to the actual bandwidth used by your site. We are generous with our set up quota's however, we reserve the right that if your bandwidth grows through the popularity of the site or its file size, we may need to increase the hosting cost to you as your website absorbs more server resources than originally allowed for. Before increasing costs, we will discuss with you an appropriate charging structure that enables us to continue to provide a high quality hosting service that is essential to the success of your website and others on the server. We review the charging structure of your hosting and resource usage on an annual basis, unless the traffic to your website dramatically increases or decreases in between the annual review periods.

## **Website Maintenance**

Work carried out on your website at your request will be charged at our standard hourly rate.

## **Email Technical support**

If you have a problem with emails and you ask us to investigate the problem, we will do so on the understanding that:

- 1) If the problem is not caused by ourselves or our server systems, then you will be charged for the entire time we have taken in investigating the problem on your behalf, regardless of the outcome of the investigation.
- 2) Wherever possible we will attempt to track the cause of the problem but when the problem is caused by a third party or intermediary that you are using, it is your responsibility to resolve the issue directly with them.
- 3) We will only investigate email problems that relate to email accounts being hosted on our servers.

### **FTP Access Responsibilities**

If you have been granted FTP access to your site files, it is a condition of this facility that you are wholly responsible for the following:

- 1) Keeping your user ID and passwords in a secure place and not divulging these details to third parties.
- 2) Do not place files or documents on the server that are not publishable to the public.
- 3) Any problems with your website are entirely your responsibility.

### **Site Setup and Maintenance for websites Hosted with Third Party Companies**

Where we have designed a website or are asked to make changes to a website hosted with another company, we make no warranties that the website will function as you intend it to without the appropriate server side components. If we specifically undertake to design a website or maintain a website that is hosted on specific third party servers, it is on the following basis:

- 1) Outside of the cost of the work that we are charging you for the website, our time and costs of dealing with your chosen hosting company is specifically excluded from any of the costs shown in our proposal documents.
- 2) You will be charged at our standard hourly rate for anytime we spend in dealing with the third party hosting company, including time left holding on the telephone while waiting for meaningful support.
- 3) You will be charged for any additional programming time or any other work that is needed to ensure that the website will work and continue to work on third party servers.
- 4) It will be your responsibility to request set up and renew SSL Certificates with the third party hosting company and to ensure that your domain is renewed.

### **Domain Name Registration**

If Ibis registers a domain name on behalf of its client we will generally use our account to do so. We will manage the domain name on your behalf whilst you wish to continue to use our services. This entails renewals at appropriate 2 year periods. The domain name can be transferred at any time but it is your responsibility to ensure that any fees due in respect of the renewal service are paid promptly.

### **Domain Name and website Transfers**

If you wish to transfer your domain name or website to another hosting company we will respect your decision.

Ibis uses high-end components and programs on our servers to enable you to get the best out of the latest Internet technologies. Accordingly if you decide to host your site with a third party, Ibis cannot be held responsible in any way for the future operation of the site or that it operates or functions as it was intended once it has been transferred away.

## **General**

### **Provision of written copy, Photography and Other Content**

Where the provision of written copy, photography or other content by Ibis is not specifically included in writing as being part of our fixed costs to you, it is your responsibility to provide this material to us in good time and before the second draft stage has been completed by Ibis. As part of the design process, we will advise you in writing of any material or content that we require from you at or before completion of the first draft stage.

It is our strong recommendation that you use professional copywriters and photographers. We have staff that will write professional copy and for photography we can help recommend suitable professionals depending on the type of images required.

Where stock photography and/or library images are used as part of the project, unless specifically agreed in writing by ourselves, the stock photography and library image costs will be charged to you as an additional cost. We will discuss and agree the cost before committing you to purchasing them.

### **Printing and Print Liaison**

All of our quoted costs in respect of print based media include the cost of our time for design and artworks and preparation to printing standards. Should you wish to provide printing quotes and supervise the management of proofs and print production then this will be invoiced separately.

### **Late Payments**

Ibis strongly recommends that for regular payments to Ibis for hosting, email, PPC advertising, search engine services etc, that these are made by standing order and timed to be paid on the 28<sup>th</sup> of each month. Ibis can supply a completed standing order mandate for you to complete.

For one off payments Ibis would suggest that these are paid within 14 days of issue by BACS transfer or failing this by cheque. Please allow 4 working days for cheques to clear. Ibis reserves the right to charge interest on late payments.

If you have any queries over any aspect of an invoice then this must be raised with Ibis immediately on receipt.

### **Copyright**

It is your responsibility to obtain the copyright permission of any content that Ibis has used in the creation of your website, brochure or marketing material that have not been directly created by Ibis.

Copyright to the website, brochure or marketing material as published is passed to you once full payment for the work has been received and cleared by your bankers. Exceptions to this are:

- 1) Any programming code created or generated by Ibis is to be used by you under licence, but copyright does not pass to you. This licence allows you use of the programming code for the domain name it was created for and cannot be used on any other site or domain whatsoever.
- 2) Where we create or modify a corporate identity or logo as part of our design process which is not specifically charged to you then copyright of this corporate identity or logo design remains with Ibis and your licence to use this work only applies to the work we have carried out on your behalf.
- 3) Where material has been created by us but is not used in the final published version of a brochure, printed material or website, this material remains the property of Ibis and the copyright of this does not pass to you. This includes any artwork, Flash creation files or files that Ibis has given to you that are not used in the final artworks created for you.
- 4) Where a member of the Ibis team has shot photography for your project, the copyright to this photography remains with Ibis. You have a licence to use these images in the printed material or website that we have created for you. The copyright and therefore the free use of the photography can be purchased at an agreed cost.

### **Photography**

Where we have introduced a professional photographer to you, it is your responsibility to agree terms with them regards their costs, invoicing arrangements, copyrights and any terms and conditions that might apply.

## **Exclusion of Incidental, Consequential and Other Losses**

To the maximum amount permitted by law, in no event shall Ibis or its suppliers be liable for any, incidental, indirect, punitive or consequential damages whatsoever (including, but not limited to, damages for: loss of profits, loss of confidential or other information, business interruption, personal injury, loss of privacy, failure to meet any other duty of confidential or other information, business interruption, personal injury, loss of privacy, failure to meet any other duty (including of good faith or of reasonable care), negligence, and any other pecuniary or other loss whatsoever) arising out of or in any way related to the use or inability to use your website, hosting, software or any other service provided by Ibis or its support services, or the provision of or failure to provide support services, or otherwise under or in connection with any provision of our services, even if Ibis or any other supplier has been advised of the possibility of such damages.

It is your sole responsibility to manage all respects of your Website's security in respect of credit card and personal details taken through you website (including, but not limited to, security of details taken through website forms, emails, e-commerce facilities and any person's details that may be held on the Website's server).

## **Termination**

Subject to the overriding clauses above and in any other written service contracts, you have the right to terminate your contract with Ibis at any time, subject to your providing Ibis with three months notice and paying any outstanding invoices or accrued work in progress or liability that has not yet been invoiced. Notice will not be accepted or deemed to be effective until outstanding invoices and liabilities for work carried out are paid in full.

Ibis reserves the right to terminate any or all of its services to you without explanation at any time. Where possible, termination of any or all services will be accompanied by one month's notice.

Upon termination of the contract, refunds will not be given for any unexpired periods of service contracts, services or facilities.

Notwithstanding Termination of the contract with Ibis, you will still be bound by all these terms and conditions including any outstanding liabilities, payment terms, copyright and exclusion of incidental, consequential and other losses.

## **Acceptance of these Terms and Conditions**

These changes are deemed to have immediate effect and apply to current and future contracts and projects that are in progress.

Should you wish to vary the terms of this agreement in the future, this must be in writing and our acceptance of any variation must be evidenced in writing. Verbal evidence will not be acceptable. If we cannot reach agreement on any variations you wish to make, we reserve the right to withdraw our services without notice, at which time the terms of this document will remain binding.

**Ibis Marketing Limited  
January 2014**