

# TERMS AND CONDITIONS

The following terms and conditions apply to all services provided by Alwaysaway Marketing and Design to the Client.

## Definitions:

**The Client:** The company or individual requesting the services of Alwaysaway Marketing and Design.

**Alwaysaway Marketing and Design:** Primary designer & developer.

**The Project:** Web design, social media or graphic design provided to the Client by Alwaysaway Marketing and Design

**Project Completion:** Completion of components outlined in project breakdown. **Launch:** Upload online or release of materials to the Client.

## Acceptance:

It is not necessary for any Client to have signed an acceptance of these terms and conditions for them to apply. If a Client accepts a quote, then the Client will be deemed to have satisfied themselves as to the terms applying and have accepted these terms and conditions in full.

Please read these terms and conditions carefully. Any purchase or use of our services implies that you have read and accepted our terms and conditions.

## Agreement:

Alwaysaway Marketing and Design will carry out work only where an agreement is provided either by email, telephone, mail or fax. An 'order' is deemed to be a written or verbal contract between Alwaysaway Marketing and Design and the client, this includes telephone and email agreements.

Please ensure that you read the project quote and terms & conditions properly and that all details of the work are included, understood and mutually agreed on.

## Timeframes:

Unless otherwise agreed upon with the client, the timescale for completion of work may vary and can take from 1 to 6 months after approval of design and plan, depending on the scale of the work. Timeframes for the project will be discussed with the client, before the project commences. Alwaysaway Marketing and Design will do their best to complete the project as soon as reasonably possible.

For a high standard of quality to be produced, please allow sufficient time for the project to be completed.

## Content:

During the project, Alwaysaway Marketing and Design will require the Client to provide website content; text, images, movies and sound files. Alwaysaway Marketing and Design is a small business, to remain efficient we must ensure that work we have programmed is carried out at the scheduled time. On occasions we may have to reject offers for other work and enquiries to ensure that the Client's work is completed at the time arranged.

This is why we ask that the Client provides all the required information in advance. On any occasion where progress cannot be made with your website because we have not been given the required information in the agreed time frame, and we are delayed as result, we reserve the right to impose a surcharge of up to 25%. If your project involves Search Engine Optimisation we need the text content for your site in advance so that the SEO can be planned and completed efficiently.

If you agree to provide us with the required information and subsequently fail to do within one week of project commencement, we reserve the right to close the project and the balance remaining becomes payable immediately.

**Please Note:** Text content should be delivered as a Microsoft Word, email (or similar) document with the pages in the supplied document representing the content of the relevant pages on your website. These pages should have the same titles as the agreed website pages. Contact us if you need clarification on this.

## Standard Media Delivery:

Unless otherwise specified in the project quotation, this Agreement assumes that any text will be provided by the Client in electronic format and that all photographs and other graphics will be provided physically in high quality print suitable for scanning or electronically in .gif, .jpeg, .png or .tiff format. Although every reasonable attempt shall be made by Alwaysaway Marketing and Design to return to the Client any images or printed material provided for use in creation of the Client's website, such return cannot be guaranteed.

## Web Design:

Whilst every endeavour will be made to ensure that the website and any scripts or programs are free of errors, Alwaysaway Marketing and Design cannot accept responsibility for any losses incurred due to malfunction, the website or any part of it.

The website, graphics and any programming code remain the property of Alwaysaway Marketing and Design until all outstanding accounts are paid in full, unless provided by the client previously.

Any scripts, cgi applications, php scripts, or software (unless specifically agreed) written by Alwaysaway Marketing and Design remain the copyright of Alwaysaway Marketing and Design and may only be commercially reproduced or resold with the permission of Alwaysaway Marketing and Design.

Alwaysaway Marketing and Design cannot take responsibility for any copyright infringements caused by materials submitted by the client. We reserve the right to refuse any material of a copyrighted nature unless adequate proof is given of permission to use such material.

Any additions to the brief will be carried out at the discretion of Alwaysaway Marketing and Design and where no charge is made by Alwaysaway Marketing and Design for such additions, Alwaysaway Marketing and Design accept no responsibility to ensure such additions are error free and reserve the right to charge an according amount for any correction to these or further additions.

The client agrees to make available as soon as is reasonably possible to Alwaysaway Marketing and Design all materials required to complete the site to the agreed standard and within the set deadline.

Alwaysaway Marketing and Design will not be liable for costs incurred, compensation or loss of earnings due to the failure to meet agreed deadlines.

Alwaysaway Marketing and Design will not be liable or become involved in any disputes between the site owner and their clients and cannot be held responsible for any wrongdoing on the part of a site owner.

Alwaysaway Marketing and Design will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on behalf of the client or any of the clients appointed agents.

Alwaysaway Marketing and Design will not be liable for any costs incurred, compensation or loss of earnings due to the unavailability of the site, its servers, software or any material provided by its agents.

Once a website has been designed and completed the final balance of payment is then due in accordance with our payment terms. There are no exceptions to this, i.e. if the client decides they no longer want the site, as they have commissioned the work and paid a deposit, they are still obliged to pay for the work that has been done. Non-payment will result in legal action being taken if necessary.

### **Database, Application and E-Commerce Development:**

Alwaysaway Marketing and Design cannot take responsibility for any losses incurred by the use of any software created for the client. Whilst every care has been taken to ensure products are problem free and accurate, the ultimate responsibility lies with the client in ensuring that all software is functioning correctly before use.

Where applications or sites are developed on servers not recommended by Alwaysaway Marketing and Design, the client is expected to provide or seek any information, additional software, support or co-operation pertaining to the server required in order for the application to be correctly developed. Where large applications are to be developed, it is the client's responsibility to provide a suitable testing environment which is identical to the final production environment.

The client is expected to test fully any application or programming relating to a site developed by Alwaysaway Marketing and Design before being made generally available for use. Where "bugs", errors or other issues are found after the site is live, Alwaysaway Marketing and Design will endeavour (but is not obliged to) to correct these issues to meet the standards of function outlined in the brief.

### **Charges:**

Charges for services to be provided by Alwaysaway Marketing and Design are defined in the project quotation that the Client receives via e-mail.

Quotations are valid for a period of thirty (30) days. Alwaysaway Marketing and Design reserves the right to alter or decline to provide a quotation after expiry of the thirty (30) days.

Prices quoted are only an estimate, and may be subject to change during the process of design and build. This can be caused by the client choosing to amend any aspect of their requirements or any third party costs which occur beyond Alwaysaway Marketing and Design's control.

Any charges incurred by international payments or international bank transfers are not the responsibility of Alwaysaway Marketing and Design. Therefore, any such charges must be paid, by the client, in addition to the amounts invoiced by Alwaysaway Marketing and Design. Consequently, Alwaysaway Marketing and Design does not accept 'shared charges' for international bank transfers or international payments.

## **Payment of Accounts:**

Unless agreed otherwise with the Client, payment is required in three stages:

- An advance payment of a minimum of fifty (50) percent of the project quotation total is required when the initial quote is agreed upon and before the project commences. Payment for third-party software and services, such as: web hosting and domain names, may also be required in full at this stage.
- A further twenty-five (25) percent is required after the client reviews the initial project build on a test server or other suitable environment, and before any amendments are made.
- The remaining twenty-five (25) percent of the project quotation total is required upon completion of the work, prior to upload to the server, release of materials or 'launch' of the website. The project is deemed completed once all the components in the project breakdown are completed.

Any additions or amendments outside of the project breakdown, which are required by the client, will not extend the deadline of the payment of the remaining balance.

Any delays to the estimated project timeframe which are caused by the client, will not extend the deadline of the payment of the remaining balance. Any delays to project completion which are caused by the client, will not extend the deadline of the payment of the remaining balance.

Payment for services is due by bank transfer. Bank details will be made available on invoices.

Invoices will be provided by Alwaysaway Marketing and Design upon completion but before publishing the live project. Invoices are normally sent via email; however, the Client may choose to receive hard copy invoices. Invoices are due upon receipt.

It is the Alwaysaway Marketing and Design policy that any outstanding accounts for work carried out by Alwaysaway Marketing and Design are required to be paid in full, no later than seven (7) days from the date of the invoice unless by prior arrangement with Alwaysaway Marketing and Design.

Accounts that remain unpaid fourteen (14) days after the date of the invoice will be assessed a service charge in the amount of the higher of one and one-half percent (1.5%) or £30 per month of the total amount due.

We will contact clients via email and telephone to remind them of such payments if they are not received when due.

If accounts are not settled or Alwaysaway Marketing and Design have not been contacted regarding the delay, access to the related website may be denied, work carried out removed and web pages removed, we will then pass such cases to the court to pursue payment, non-payment can result in court judgements being added to the client's credit rating. Following consistent non-payment of an invoice our Solicitors will contact the client in question, with a view to taking the matter further and if need be to seek payment through legal procedures, and if necessary court summons.

## **Default:**

Accounts unpaid thirty (30) days after the date of invoice will be considered in default. If the Client in default maintains any information or files on Alwaysaway Marketing and Design's Web space, Alwaysaway Marketing and Design will, at its discretion, remove all such material from its web space. Alwaysaway Marketing and Design is not responsible for any loss of data incurred due to the removal of the service. Removal of such material does not relieve the Client of the obligation to pay any outstanding charges assessed to the Client's account. Clients with accounts in default agree to pay Alwaysaway Marketing and Design reasonable expenses, including legal fees and costs for collection by third-party agencies, incurred by Alwaysaway Marketing and Design in enforcing these Terms and Conditions.

## **Client Review:**

Alwaysaway Marketing and Design will provide the Client with an opportunity to review the appearance and content of the website during the design phase and once the overall project development is completed, but before upload to a server or release of the materials to the Client. The client must inform Alwaysaway Marketing and Design of any amendments required within 7 days of design completion and within 7 days project development completion. At the completion of the project, such materials will be deemed to be accepted and approved.

## **Additional Work and Expenses:**

If the client would like design mock-ups of their project before the project commences, this service can be provided for an additional cost.

Please confirm immediately if any changes need to be made to the project breakdown and quote given. Any changes made after approval of the quote, including designs and any other material will incur a further charge.

Any additional work required by the Client on a previously completed project, will be considered as a separate project and will therefore incur charges of its own. Client agrees to reimburse Alwaysaway Marketing and Design for any additional expenses necessary for the completion of the work. Examples would be purchase of special fonts, stock photography, plug-ins etc.

## **Web Browsers:**

Alwaysaway Marketing and Design makes every effort to ensure websites are designed to be viewed by the majority of visitors. Websites are designed to work with the most popular current browsers (e.g. Mozilla Firefox, Microsoft Edge, Google Chrome, etc.). Client agrees that Alwaysaway Marketing and Design cannot guarantee correct functionality with all browser software across different operating systems.

Alwaysaway Marketing and Design cannot accept responsibility for web pages which do not display acceptably in new versions of browsers released after the website have been designed and handed over to the Client. As such, Alwaysaway Marketing and Design reserves the right to quote for any work involved in changing the website design or website code for it to work with updated browser software.

## **Passing of Rights:**

Once all amounts due to us from you are paid and cleared you are assigned the rights to use, as applicable, the products and services, including, the web site which includes the text, graphics, animation, audio components and digital components contained within the finished web site, in accordance with these terms and conditions, the Project Agreement and any applicable agreement, terms or licence but no rights of ownership are conveyed unless specifically stated in the Project Contract.

No such rights as described in above will pass until all amounts due to us from you are paid. If you have not paid the invoice in full within 2 months from the date of the invoice you agree that you will forfeit your rights.

The rights to photographs, graphics and any third party items such as source code, always remain the property of their respective owners.

Unless you have our specific written agreement in the Project Contract, all products, including Content Management Systems, interfaces, navigational devices, menus, menu structures or arrangements, icons, help, all operational instructions, scripts, cgi applications, software, programming/source code, and all other components of any source or object computer code that comprises the Website, all literal and non-literal expressions of ideas that operate, cause, create, direct, manipulate, access, or otherwise affect the Content and design elements used or developed and all software, and our products and results of our services remain our property and we retain full ownership rights and all intellectual property rights. You specifically agree not do anything that may in any way infringe upon or undermine our rights, title, or interest in the Website or our products and services. This includes, but is not limited to, any sale, transfer or gift of the whole or of any part of any item, data or anything whatsoever that we own. You fully understand that we may reproduce, reuse, develop and use in any other way we choose, anything within our ownership.

## **Design Credit:**

A link to Alwaysaway Marketing and Design will appear in either small type or by a small graphic at the bottom of the Client's website. If a graphic is used, it will be designed to fit in with the overall site design. If a client requests that the design credit be removed, a nominal fee of 10% of the total development charges will be applied. When total development charges are less than £5000, a fixed fee of £500 will be applied. The Client also agrees that the website developed for the Client may be presented in Alwaysaway Marketing and Design's portfolio and other marketing material.

## **Access Requirements:**

If the Client's website is to be installed on a third-party server, Alwaysaway Marketing and Design must be granted temporary read/write access to the Client's storage directories which must be accessible via FTP. Depending on the specific nature of the project, other resources might also need to be configured on the server.

## **Post-Placement Alterations:**

Alwaysaway Marketing and Design cannot accept responsibility for any alterations caused by a third party occurring to the Client's pages once installed. Such alterations include, but are not limited to additions, modifications or deletions.

Domain Names, Website Hosting & Other Subscription Services.

Alwaysaway Marketing and Design may purchase domain names, website hosting or other subscription services, on behalf of the Client. Payment and renewal of those domain names, website hosting, and other subscription services is the responsibility of the Client. The loss, cancellation or otherwise of the domain name, website hosting or other subscription services, brought about by non or late payment is not the responsibility of Alwaysaway Marketing and Design. The Client should keep a record of the due dates for payment to ensure that payment is received in good time.

## **Privacy Policy:**

Please read our full privacy policy for more information.

## **Abuse:**

We may limit or deny your access to support or terminate services if we determine, in our reasonable discretion, that you are acting, or have acted, in a way that results or has resulted in misuse of support or services, or abuse of Alwaysaway Marketing and Design team members.

**Termination:**

Termination of services by the Client must be requested in a written notice and will be effective on receipt of such notice. E-mail or telephone requests for termination of services will not be honoured until and unless confirmed in writing. The Client will be invoiced for project work completed to the date of first notice of cancellation for payment in full within thirty (30) days.

If the client has paid in advance, no refunds will be issued for the project work which has already been completed to the date of the first notice of cancellation or termination.

Termination of services by the Client, may also incur additional charges, such as: the cost of transferring website hosting, domain names or other services away from Alwaysaway Marketing and Design, to another provider.

General  
These Terms and Conditions supersede all previous representations, understandings or agreements. The Client's signature below or payment of an advance fee constitutes agreement to and acceptance of these Terms and Conditions. Payment online is an acceptance of our terms and conditions.

**Governing Law:**

This Agreement shall be governed by English Law.

**Liability:**

Alwaysaway Marketing and Design hereby excludes itself, its Employees and or Agents from all and any liability from:

- Loss or damage caused by any inaccuracy;
- Loss or damage caused by omission;
- Loss or damage caused by delay or error, whether the result of negligence or other cause in the production of the web site;
- Loss or damage to clients' artwork/photos, supplied for the site. Immaterial whether the loss or damage results from negligence or otherwise.

The entire liability of Alwaysaway Marketing and Design to the Client 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.

**Severability:**

In the event any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired and the Agreement shall not be void for this reason alone. Such invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable valid, legal and enforceable provision, which comes closest to the intention of the parties underlying the invalid provision.