

Terms and Conditions of Trade

The Customer's attention is drawn to the Clauses hereof which exclude or limit the Company's Liability and those which require the Customer to indemnify the Company in certain circumstances.

1. Definitions and applications

"Company"	is The Click Business, Freelance, Sole proprietary carrying out Web Site, Internet Application Development and Hosting Services.
"Customer"	Means any person at whose request or on whose behalf the Company undertakes any business, or provides advice, information or services.
"The Principal"	Means the commissioning body, entity or owner of the project to which any business concluded under these Conditions relates and any other person who is or may become interested in them.
"Person"	Includes any persons or any Body or Bodies Corporate.
"Sign Off Stage"	Means an agreed point within the timeline of the Project where the Customer agrees all expected elements are complete, up to date and are acceptable.
"Project"	Means the contracted or commissioned work in progress.
"Work"	Means the finished work, piece or application at the final complete stage.
"Supplied Content"	Means text, font, imagery, audio and other components supplied by the Customer, Principal or Person.
"Purchase Order"	Means the document signed by the Customer and the Company detailing the Work or services to be carried out under the terms and conditions set hereto.

2. Quality

- 2.1 Quality of workmanship during the development stages will be measured on an ongoing basis and is subject to the technical limitations of the Internet and electronic hardware for visual and audio reproduction quality. The Company will make available to the Customer at all times through the Project, a live work in progress prototype proof. This prototype proof is made available with working files on an Internet server and can be accessed electronically by all interested parties during the development process. The Customer at any point can request amendments of files during development up to the current respective Sign Off Stage. After the respective Sign Off Stage, re-working amendments of files may incur additional costs. The Customer indemnifies the Company for additional costs incurred for re-working file elements already accepted at a previous Sign Off Stage. In the absence of a specification or sample, all Work supplied shall be within the normal limits of prototyping quality.

3. Sign Off Stages

- 3.1 Subject to Clause 8, the Company and the Customer will agree a number of Sign Off Stages within the timeline of the Project. At the Sign Off Stage an agreed payment is due to the Company. The Customer agrees that the work in progress is acceptable and undertakes to make available Supplied Content in due time to meet the following Sign Off Stage. Agreement and acceptance can be verbal or written.

4. Price and Quotations

- 4.1 All prices are subject to change without notice and subject to the provisions of clause 4.2 and clause 5.5, will be established at the time the order which gives rise to a Project is received by Electronic Means or in other cases confirmed or acknowledged by the Company.
- 4.2 If the Customer requires special content or functionality which requires bespoke or specific software or special skills requiring out-sourcing not available at the time of order, Purchase Order shall be irrevocable and be deemed to be exclusively for the Project at the price established at the time the Purchase Order is taken or confirmed. Should there be any price increase due to a rise of its suppliers price to the Company or direct costs to which the Company becomes subject (including without limit costs resulting from currency fluctuation) the Company shall only increase its price by such level as is necessary.
- 4.3 Unless otherwise agreed by letter by an Authorized Representative of the Company all prices exclude the cost of delivery.
- 4.4 All prices and charges are exclusive of any applicable Value Added Tax, which the Customer will be additionally liable to pay to the Company.

5. Orders and Specifications

- 5.1 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order.
- 5.2 The Company reserves the right to make any changes in the specification of the Work which are required to conform with any applicable safety or other statutory requirements. These changes will be duly notified to the Customer. The Customer cannot cancel the order placed provided the changes do not alter the basic terms of the contract. For other types of changes, the possibility of cancellation will be subject to agreement between the Customer and the Company.
- 5.3 The withdrawal or cancellation of any order which has been placed by Customer can only take place by means of letter, fax or email of an Authorized Representative of the Company.
- 5.4 Notwithstanding any other terms of these Conditions it is agreed that the provision or display of Product pricing and other Information (as defined in clause 4.1) by the Company to the Customer does not amount to an offer by the Company to sell such Product at that price or on any other terms. Supply of such Information is only an invitation to treat. An order by the Customer for Product or Services shall be the offer. In the case of orders placed by Electronic means if the Company shall accept such order it shall do so by delivering the Product to the Customer or the Principal. Notwithstanding any order confirmation or acknowledgement, the acceptance of any order placed by Electronic Means shall not take place or be deemed to have taken place until such time as the Product shall have been so delivered.
- 5.5 In the case of orders placed by Electronic Means only, notwithstanding any acceptance by the Company of any offer for any Product, if there has been a material and obvious pricing or quotation error by the Company, the Company shall be entitled within 30 days of its acceptance of such offer to either invoice the Customer for the Customer's true price of the Product at the date of order or, if the Customer shall prefer, collect the Product at the Company's expense and credit the Customer for any charges (e.g. price and freight) invoiced by the Company.
- 5.6 Orders for direct shipment to Principals or customer's customers or Special Order Products may require prepayment and may be subject to additional fees.

6. Delivery/date/arrangements

- 6.1 The date of delivery of all Work shall be that specified in the Purchase Order unless agreed otherwise between the Company and the Customer. The Company shall furnish such programmes of manufacture (the Sign Off Stages) and delivery as the Customer may reasonably require and the Company shall give notice to the Customer as soon as practicable if such programmes of manufacture (the Sign Off Stages) are or are likely to be delayed.
- 6.2 The Delivery point will be agreed and specified on the Purchase Order. The Work will be delivered on Microsoft® Windows® compatible media Diskette or CD ROM by carrier. If goods are incorrectly delivered, the Company will be held responsible for any additional expense incurred in delivering them to their correct destination.
- 6.2.2 The Customer will advise the Company within 7 days of notification of dispatch if the Work has not been received.
- 6.3 In the case that the Customer has requested the Work be Up Loaded to their nominated Internet Service Provider and has paid for the service of transferring Work electronically to the Hosting Computer and has furnished all the relevant addresses and access codes to the Company to perform such transfer, the terms and conditions set herein will apply at all times, particularly clause 20 below. Should such Transfer be unsuccessful due to third party technical differences, non-standard systems, or technical incompatibilities the Work will be deemed to be delivered when received by the Customer on Diskette or CD ROM as clause 6.2 above.
- 6.4 In the case that the Customer has requested the Work be Up Loaded to the Company's Internet Service Provider and has paid the Company for the service of Internet Hosting or has signed a Hosting and Service Contract with the Company, the terms and conditions set herein will apply at all times, particularly clause 20 below and the additional "Terms of Service Contract" contained thereon ("The Hosting and Service Contract"). Apart from the forgoing, the Work will be deemed to be delivered when received by the Customer on Diskette or CD ROM as clause 6.2 above.

7. Risk and property/retention of title

- 7.1 Title, ownership and copyright of the finished work including all components, elements, images, fonts and sound remains the property of the Company until a cleared final payment in full is received from the Customer. The Company reserve the right to secure payment in full from the Principal including any reasonable debt recovery costs and Statutory Interest as set out in Clause 10.

8. Terms of payment

- 8.1 Terms of Payment are Net 7 days from the date of invoice. A cleared deposit of 20% plus VAT is required prior to commencement of the Project. A factor of the balance is due at each Sign Off Stage equal to the number of Sign Off Stages agreed within the project time line.

9. Time limit for raising disputes

- 9.1 Disputes of particular invoices should be made within 7 days of the date of invoice.

10. Right to interest and compensation for debt recovery costs
- 10.1 The Company reserves the right under the Late Payment of Commercial Debts (Interest) Act 1998, as amended and supplemented by the Late Payment of Commercial Debts Regulations 2002 to claim reasonable debt recovery costs and Statutory Interest.
11. Loss or damage to Data
- 11.1 The Company will not be liable any loss of or damage to files or business and commercial data however so caused, during production of the Work or after the Work is presented to the Customer on Diskette or CD ROM media or host server. The Customer will ensure that adequate security, backup and maintenance of all data is effective.
13. Acceptance of goods
- 13.1 Acceptance of the work in progress for quality, usage and functionality will be made at the agreed Sign Off Stages within the timeline of the contract. Final Acceptance of the Work is made at the end of the Project and the Work is delivered on Diskette or CD ROM media after full cleared payment is received.
14. Variations
- 14.1 The Customer or Persons shall not alter any of the Work, except as directed in writing by the Company but Customers shall have the right, from time to time during the Project, by notice in writing to direct the Company to add or to omit, or otherwise vary, the Work during the Project, and the Company shall carry out such variations and be bound by the same conditions, so far as such applicable, as though the said variations were stated in the Project.
- 14.2 Where the Company receives any such direction from the Customer which would occasion an amendment to the Project Price, the Company shall, with all possible speed, advise the Customer in writing to that effect giving the amount of any such amendment, ascertained and determined at the same level of pricing as that contained in the Company's Quotation.
- 14.2.1 If in the opinion of the Company, any such direction is likely to prevent the Company from fulfilling any of his obligations under the Project he shall so notify the Customer and the Customer shall decide with all possible speed whether or not the same shall be carried out and shall confirm his instructions in writing and modify the said obligations to such an extent as may be justified.
- 14.2.3 Until the Customer so confirms his instructions they shall be deemed not to have been given.
- 14.3 Variations to contracts, projects and works maybe mutually agreed from time to time, before, during and after completion of the final work. All variations will be recorded in writing and jointly signed by the Company and Customer and will include details of the variations in the design and/or functionality, new pricing, and timing of the Sign Off Dates. Should such variations become in dispute, the letter of these Terms and Conditions of Trade shall prevail throughout.
15. Patent rights, copyright and Trade Mark ownership indemnity.
- 15.1 The Customer shall save harmless and keep the Company indemnified from and against:
- 15.1.2 Any Claim, dispute, prosecution, damage, costs and expenses arising from use of Supplied Content.
- 15.2 The Customer will indemnify the Company against any claim for infringement of Letters Patent, Registered Design, Trade Mark or Copyright by the use of sale of any article or material supplied by the Company to the Customer. Provided always that this indemnity shall apply to any infringement which is due to the Company having followed any instruction furnished or given by the Customer or to the use of such article or material in a manner or for a purpose or in a foreign country not specified by or disclosed to the Company, or to any association or combination with any other article or material not supplied by the Company. The Customer on his part warrants that any instruction furnished or given by him shall not be such as will cause the Company to infringe any Letters Patent, Registered Design, Trade Mark or Copyright in the execution of the purchase order.
16. Force majeure
- 16.1 If, by reason of any acts of nature, war, hostilities or of any fire at any of the Company's premises or those of his suppliers the Company shall have been delayed in completing the Project, the Company shall, immediately upon becoming aware that any such delay has been caused, give to the Customer notice in writing of his claim for an extension of time for the completion of the Project and the Customer shall allow the Company an extension of time for such completion in respect of any delay caused by any of the circumstances before mentioned as shall be reasonable. Provided always that the Company shall not be entitled to any extension of time unless he shall at all times have used all reasonable endeavours to prevent any such delay and to minimise any such delay and to do all that may be reasonably required to the satisfaction of the Customer to proceed with the work.
- The maximum extension of time granted under this condition for Project Items shall be limited to three months.
17. Jurisdiction and applicable law
- 17.1 These Conditions and any act or contract to which they apply shall be governed by English Law and any disputes arising out of any act or contract to which these Conditions apply shall be subject to the exclusive jurisdiction of the English Courts.
18. Assignment and subletting of Projects or Work
- 18.1 Neither the Customer nor the Company may assign or transfer any right or obligation under the Project or Work without the prior written consent of the other. The Company will not sublet the whole of the Services. The Company may sublet parts of the services with the prior consent of the Customer (which consent will not be unreasonably withheld or delayed). Notwithstanding the subletting of any part or parts of the services, the Company will remain solely responsible to the Customer for the performance of the Services
19. Right to progress and inspect goods
- 19.1 The Customer's representatives shall have the right to progress and inspect all Work at the Company's premises at all reasonable times and to reject Work that does not comply with the terms of the Project. The Company's sub-contract shall be made accordingly. Any inspection, checking, approval or acceptance given on behalf of the Customer shall not relieve the Company or his Sub-Contractors from obligation under the Project.
20. Warranties and liability
- 20.1 Where the Company does manufacture Products or Work (or where the Products comprise proprietary computer software the Company does not publish or license the software) and subject to the conditions set out below in this clause 20 the Company sells the Products with the benefit of the manufacturer's or publisher's or licensor's ("publisher's") warranty (as the case may be).
- 20.2
- 20.2.1 The Company will accept liability for defective Products only to the extent that the Company is entitled to make a claim under the manufacturer's or publisher's, Dead on Arrival, warranty or other defective goods terms and actually obtains from the manufacturer or publisher a refund credit repair or replacement in respect of the defective Products. Processing of these defective Products shall be made according to the manufacturer's procedure and the instructions set in clause 20.4 below. The Company cannot and shall have no obligation to accept a return of and/or grant a credit for Work not compliant with the manufacturer's procedures.
- 20.2.2 The Company shall be under no liability in respect of any defect arising from fair wear and tear willful damage negligence abnormal working conditions failure to follow the Company's or the manufacturer's or publisher's instructions (whether oral or in Writing) misuse or alteration or repair of the Work without the Company's approval.
- 20.2.3 The Company shall be under no liability under the above warranty if the total price of the Work has not been paid.
- 20.3 All warranties, conditions or other terms implied by common law or statute, or otherwise in connection with the sale or supply of goods or goods or services (save, in the case of goods as to title) are excluded to the fullest extent permitted by law.
- 20.4 Any claim by the Customer which is based on a defect in the quality or condition of a Work shall be notified to the Company's Customer Services Department. Upon notification of any such claim by the Customer the Company shall either notify the Customer whether the policy of the manufacturer of the Products is to deal with the Customer direct (in which case the Customer shall deal with the manufacturer direct provided the Company gives sufficient details to enable the Customer so to do) or shall provide the Customer with a Return for Investigation (RFI) number (in which case the Customer shall return the Products to the Company in their original UNMARKED packaging together with details of the RFI number and the Customer's name and address). This clause 20.4 shall only apply to Work the Customer is entitled to return to the Company as provided in these Conditions.
- 20.5 The Company shall not be liable to the Customer, Principal or Persons for any economic or financial loss or damage (including without limit any loss of profits, loss of revenue, liabilities incurred by the Customer to third parties, or additional expenses incurred or the cost of time spent) or any consequential, indirect, or special loss or damage costs expenses or other claims for consequential compensation whatsoever (including without limit loss of or damage to data or loss of goodwill) incurred or suffered by the Customer and in every case howsoever caused or arising (and whether caused by the negligence of the Company, its employees or agents or otherwise).
- 20.6 The Company's liability for direct loss or damage arising from damage to tangible property for which the Company is liable shall be limited to the VAT exclusive price of the relevant Work or Service in connection with which any claim for damage or loss is made.
- 20.7 Nothing in these Conditions shall in any way exclude or limit any liability the Company may have for death or personal injury caused by its negligence.

- 20.8 The Company shall not be liable to the Customer or be deemed to be in breach of any Contract by reason of any delay in performing or any failure to perform any of the Company's obligation in relation to the Products if the delay or failure was due to any cause beyond the Company's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Company's reasonable control:-
- 20.8.1 Act of God explosion flood tempest fire or accident.
 - 20.8.2 War or threat of war sabotage insurrection civil disturbance or requisition.
 - 20.8.3 Acts restrictions regulations bye-laws prohibitions or measures of any kind on the part of any governmental or parliamentary or local authority.
 - 20.8.4 import or export regulations or embargoes.
 - 20.8.5 strikes lock outs or other industrial actions or trade disputes (whether involving employees of the Company or a third party) difficulties of the Company's supplier in obtaining raw materials labour fuel parts or machinery.
- 20.9 The Company shall not be liable to the Customer or be deemed to be in breach of any Contract by reason of any United Kingdom Act of Parliament or Law or Bylaw currently in force or made law subsequent to the commissioning and delivery of the product. United Kingdom Law related to Web Sites is enforceable with the Web Site Owners. The Company will take reasonable steps to advise Web Site Owners of their lawful requirements for Web Sites under United Kingdom Law.

21. Severability

- 21.1. If any provision of these terms is prohibited by law or found to be unlawful, void or otherwise unenforceable, such provision shall, to the extent required by applicable law, be severed from this Agreement. The remaining provisions of this Agreement shall not as far as possible be changed or modified and all other terms and conditions not so severed shall continue in full force and effect.
- 21.2. Without prejudice to section 17 above, we recognise that some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of liability for incidental consequential damages. Accordingly, some of the above limitations of sections 20 may not apply to you to their fullest extent, in which case section 21 shall apply.

22. Insolvency and bankruptcy

- 22.1 This Clause applies if:
- 22.1.1 the Customer makes any voluntary arrangements with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation otherwise than for the purposes of amalgamation or reconstruction.
 - 22.1.2 an encumbrancer takes possession or a receiver is appointed of any of the property or assets of the Customer or
 - 22.1.3 the Customer ceases or threatens to cease carrying on business or
 - 22.1.4 The Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 22.2 If this Clause applies then without prejudice to any other right or remedy available to the Company who shall be entitled to cancel the Project or suspend any further deliveries or services under the Project without any liability to the Customer and if the Works have been delivered and not paid for then the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.