

TERMS & CONDITIONS

WEB DESIGN TERMS

DESIGN & FUNCTIONALITY

We use pre-made code, designs and layouts so we don't waste time creating your website from scratch. The pre-made elements can be largely customised so you will still end up with a unique website.

We are not responsible for any issues that may arise related to the use of third party content, code or systems. If any issues do arise we will notify you and, if we are able to do so, provide a separate estimate for fixing the issues or liaising with the third party on your behalf.

You'll have plenty of opportunities to review our work and provide feedback. If, at any stage, you're not happy with the direction our work is taking, you'll pay us in full for everything we've produced until that point and cancel this contract.

TEXT & IMAGES

Unless agreed separately, we're not responsible for inputting text or images into your content management system or creating every page on your website. We provide professional copywriting and editing services, so if you'd like us to create new content or input for you, we can provide a separate estimate for that.

You should supply graphic files in an editable, vector digital format. You should supply photographs in a high resolution digital format. If you choose to buy stock photographs, we can suggest stock libraries. If you'd like us to search for photographs for you, we can provide a separate estimate for that.

CODE & TESTING

We deliver web page types developed from HTML, CSS and JavaScript.

Browser testing no longer means attempting to make a website look the same in browsers of different capabilities or on devices with different size screens. It does mean ensuring that a person's experience of a design should be appropriate to the capabilities of a browser or device.

We test our work in current versions of major desktop browsers including Safari, Chrome and Firefox. For mobile we test on iOS Safari and Android Chrome. We won't test in other or older browsers (e.g. IE, Edge, Blackberry or Opera) unless we agreed separately. If you need an enhanced design for an older browser, we can provide a separate estimate for that.

WEB DESIGN TERMS

SEARCH ENGINE OPTIMISATION

You may also notice a drop in the rank after the website has been launched. This is usually down to the fact that the website is significantly different from the previous version.

The search engines need time to re-index and re-evaluate your website and this can take anywhere between 1 day and 6 months. This is something that is completely out of our control.

CHANGES & REVISIONS

We don't want to limit your ability to change your mind. At the beginning of this contract we outlined the time we will spend on revisions, we estimate that's what we'll need to accomplish everything you've told us you want to achieve.

We're happy to be flexible and if you want to change your mind or add anything new, that won't be a problem and we can provide a separate estimate for that.

UPDATES & SUPPORT

Unless agreed we don't automatically update the software or security on your website. Nor do we fix bugs, do design changes or give any technical support for free. If you need any software updates, security updates, design changes, or technical support, we can provide a separate estimate for that.

It is highly recommended to keep your website updated and have security patches installed. Failing to do so may result in your website being hacked. If attackers acquire your customer data you are required to notify them by law (Data Protection Act).

SEO TERMS

GUARANTEES

We don't guarantee improvements to your website's search engine ranking. We also have no control over policy or algorithm changes, however we will always follow Google's Guidelines when carrying out work on your project

Sometimes the work we carry out will cause a temporary drop in your rankings however this is usually followed by a favourable increase.

SEO should be a slow process. There are no long-term shortcuts and most SEO campaigns take 6 to 12 months to see any major rank increases

SITE OPTIMISATION

You must notify us of any page edits you do on your website during the campaign. Preferably before they are done so we can advise and prepare you for any effects this will have on your ranking.

We also need to know when new web pages are added or taken away so we can take the appropriate steps to ensure the smooth running of the campaign and minimise any risks.

SCHEDULING

We work with multiple clients and like to dedicate periods of time to each client so that we work as efficiently as we can. This does mean that the work carried out on your campaign might be right at the start or right at the end of the month.

We will however complete the work needed by the end of the month and before the next billing cycle. On the (very rare) occasion that this does not happen we will notify you and make up for it in the following month.

HOSTING TERMS & SLA

We understand the importance of server availability to our customers. We provide the following levels of service to ensure maximum performance and uptime. We provides Service Level Commitments in three key areas:

Network Quality - Bird Marketing is hosted by the "Google Cloud Network" meaning we rely on Google Cloud resources. Redundant network components are used to ensure uptime and eliminate single points of failure. The Bird Marketing network has multiple redundant high-speed connections providing fast, reliable connectivity.

Network Uptime - We guarantee that the network will be available 99.9% of the time in a given month, excluding scheduled maintenance. We shall refund you 5% of the monthly fee per additional 30 minutes downtime (up to 100% of customer's monthly fee). Network uptime includes functioning of all network infrastructure including routers, switches and cabling. Network downtime exists when a particular customer is unable to transmit and receive data and we record such failure in the Bird Marketing support ticket system. Network downtime is measured from the time the ticket is opened by a customer to the time the server is once again able to transmit and receive data. Network Uptime does not include failure of web sites due to corruption of data or web site pages not directly under our control.

Hardware Guarantee - Hardware replacement will begin immediately upon identification of the hardware failure and is guaranteed to be complete within 24 hours of problem identification. We employ backups of hard drives, network cards, servers in case of a single point of failure. In case of a catastrophic failure, we have provisions in place to restore any software component within 24 hours.

SUPPORT TERMS & SLA

We understand the importance of prompt response and resolution times for our customers. We provide the following levels of service to ensure issues are responded to and resolved in a timely manner.

Our Responsibilities

We will maintain and support the website(s) used by the client. Additionally, we will:

- Ensure relevant software and services are available to you in line with the agreement outlined in this contract.
- Respond to support requests as described in the SLA - and within reasonable time, in any case.
- Do our best to escalate and resolve issues in an appropriate, timely manner.
- Maintain good communication with you at all times.

Your Responsibilities

You will use the website(s) covered by this contract as intended. Additionally, the client will:

- Notify us of issues or problems in a timely manner.
- Provide us with access to equipment, software and services for the purposes of maintenance, updates and fault prevention.
- Keep the supplier informed about potential changes to its website(s).
- Maintain good communication with us at all times.

Exclusions

As this contract is written in a spirit of partnership, we will always make the best-possible efforts to provide support and rectify problems as requested. However, this agreement only applies to the parts of the website(s) listed in the quote section. Additionally:

- This contract does not cover problems caused by using equipment, software or services in a way that is not recommended. If you have made unauthorised changes to the configuration or set-up of equipment, software or services, this agreement may not apply.
- This contract does not apply to circumstances that could be reasonably said to be beyond our control. For instance: floods, war, acts of god and so on.
- This contract also does not apply if you fail to pay agreed invoices on time.
- Having said all that, we aim to be helpful and accommodating at all times, and will do its absolute best to assist you wherever possible.

SUPPORT TERMS & SLA

Activities

We will perform a number of specific activities for you. Details of these activities are described in the table below, along with the purpose and frequency of each.

ACTIVITY	FREQUENCY	NOTES
Check for theme, plugin and main software updates	Proactive - Monthly	Reminded by our project management system every month for consistency
Minor design changes	Reactive	For example: <ul style="list-style-type: none"> → Addition of snippets of content → Menu tweaks → Font colour or size changes
Troubleshooting issues with website	Reactive	For example: <ul style="list-style-type: none"> → Issues with backend functionality → Display errors on front-end

Reactive Support

We will provide reactive support services to you when you encounter an issue with the website(s). You should raise this with us to allow us to investigate the problem and respond appropriately.

All support issues should be raised via our online ticketing system, available by emailing support@birdmarketing.co.uk. Raising issues in this way enables us to prioritise and handle them correctly.

It also ensures required information about the issue is captured efficiently, and that the supplier's response times (important for the SLA) are measured fairly.

SUPPORT TERMS & SLA

Response Times

Described in the table below there are 4 levels at which we describe the severity of an issue and how quickly it should be responded to and resolved within:

PRIORITY	RESPONSE TIMES	RESOLUTION TIMES	EXAMPLES
Urgent	1 Hour	4 Hours	<ul style="list-style-type: none"> → Website completely broken. → Website compromised.
High	4 Hours	12 Hours	<ul style="list-style-type: none"> → 1 or more pages broken. → Contact form or integral functionality broken. → Major security vulnerability released or discovered.
Medium	8 Hours	24 Hours	<ul style="list-style-type: none"> → Back end functionality broken with no front end effect. → Minor security vulnerability released or discovered.
Low	24 Hours	72 Hours	<ul style="list-style-type: none"> → Plugin or software version needs updating but does not pose a security threat. → Spelling mistake on front end. → Glitch or minor issue in front end design.

Conditions

- Support will be provided **during working hours**. These are also referred to as 'standard hours' and are 9:30am - 5:00pm on weekdays (excluding English Bank Holidays).
- Support will be provided on a **remote access basis**. Visits to the client's premises (or to other sites) are charged separately.
- Additional charges apply for these items:
 - ◆ Remote support outside standard hours: £100 per hour
 - ◆ Onsite visits inside standard hours: £150 per hour (travel time included) + travel expenses
 - ◆ Onsite visits outside standard hours: £200 per hour (travel time included) + travel expenses

DOMAIN TERMS

GENERAL TERMS

All of our domain related services are forwarding services ultimately enacted by the registers or registrars we use. Our services are therefore limited to those enabled to us by those third parties.

You agree to not use your domain in a manner that is unlawful, infringe any intellectual property rights or be considered abusive.

We occasionally change the registrar we hold your domain with, in such a case we will email you with the access information which will allow you to update any payment information as required.

For compliance purposes we will check the information provided against public records to ensure its accuracy.

DOMAIN RENEWALS

If you have registered a domain with us we will endeavour to renew your domain on your behalf as long as you have a valid and up-to-date payment method on your account and you have not set the domain to cancel or manual renewal.

You are entirely responsible for any consequences of a domain not being renewed.

Domain renewals are billed at the prevailing rate at the time of renewal. For example a domain renewal rate might be different from the renewal rate the previous year. You can request a copy of our domain rates by emailing sales@birdmarketing.co.uk.

CANCELLATION & REFUNDS

You may cancel your domain name at any time, providing it is within 24 hours of the payment date, which can be up to 30 days before renewal date.

Domain registrations and renewals are non-refundable.

We are not responsible for checking any errors such as spelling mistakes in a domain name.

DOMAIN TERMS

TRANSFERS

If you wish to transfer a domain you must first ensure you have permission and provide us with supporting documentation. If your supporting information is not sufficient then we may decide to not complete a transfer request.

We won't transfer any domains unless all fees, including for other services, have been paid.

Domain transfers are billed at the prevailing rate at the time of transfer. For example a domain transfer rate might be different from the transfer rate the previous year. You can request a copy of our domain rates by emailing sales@birdmarketing.co.uk.

EXPIRATION

If a domain is not renewed by its expiration date it will cease to operate and will be marked as expired.

A domain will expire if there are repeated failed payments or a manual renewal has not been done.

Following the expiry date a domain may enter a grace or redemption period. Certain registries do not allow for grace and/or redemption periods, in this case the domain may be unrecoverable.

We may at our discretion renew a domain name that has expired.

PORTAL & MANAGEMENT

All domain services including registrations, transfers and renewals can be done via our online portal or by contacting your account manager.

Our portal will send email notifications for important updates. These include payment issues, domain expiry and renewal notices, order confirmations and any other related notifications.

For expiry and renewal notices we will send you an email at least 30 days before the due date.

Please make sure you have whitelisted the birdmarketing.co.uk domain to ensure you receive any email notifications.

INTELLECTUAL PROPERTY

Just to be clear, “Intellectual property rights” means all patents, rights to inventions, copyright (including rights in software) and related rights, trademarks, service marks, get up and trade names, internet domain names, rights to goodwill or to sue for passing off, rights in designs, database rights, rights in confidential information (including know-how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or shall subsist now or in the future in any part of the world.

First, you guarantee that all elements of text, images or other artwork you provide are either owned by your good selves, or that you’ve permission to use them. When you provide text, images or other artwork to us, you agree to protect us from any claim by a third party that we’re using their intellectual property.

We guarantee that all elements of the work we deliver to you are either owned by us or we’ve obtained permission to provide them to you. When we provide text, images or other artwork to you, we agree to protect you from any claim by a third party that you’re using their intellectual property.

Provided you’ve paid for the work and that this contract hasn’t been terminated, we’ll assign all intellectual property rights to you as follows:

We’ll own any intellectual property rights to elements we’ve developed prior to, or developed separately from this project and not paid for by you (such as plugins, themes etc). We’ll own the unique combination of these elements that constitutes a complete design and we’ll license its use to you, exclusively and in perpetuity for this project only, unless we agree otherwise.

You’ll own the website or graphics we design for you plus the visual elements that we create for it. We’ll give you source files and finished files and you should keep them somewhere safe as we’re not required to keep a copy. You own all intellectual property rights of text, images, site specification and data you provided, unless someone else owns them.

T E R M S & C O N D I T I O N S

GENERAL TERMS

Non-Solicitation

You shall not solicit for hire and shall not hire any current Bird Marketing employee without Bird Marketing's consent in written form.

Non-Disclosure

Both parties agree that no proprietary information shall be disclosed and shall hold in confidence any and all proprietary information not already in the public domain, including but not limited to trade secrets, intellectual property, creative concepts, design and production processes, marketing information or techniques, price lists, pricing information and estimates and client lists or other client information, whether in written, electronic or oral form ("Information").

Both parties agree not to use the Information for any purpose other than the performance of the Services or development of Products for the designated project described in this contract.

Both parties acknowledge that any disclosure of the Information will cause harm to the party of ownership. As a consequence, the parties agree that if either party fails to abide by the terms of this Agreement, the harmed party will be entitled to specific performance by the party at fault, including issuance of a temporary restraining order or preliminary injunction enforcing this contract, and a judgment for damages caused by breach of contract, and to any other remedies provided by applicable law.

Client Non-Response

It is mutually agreed that from time to time we will need access to your personnel and resources to provide project direction and feedback. Should we deem you as being non responsive, we will promptly inform the you in writing of such required feedback. Should you not respond within 5 days, we will promptly inform you that the the project resources will be put on hold until such time that client provides necessary access to personnel or resources and you promptly inform us in writing to re-engage our resources in the project. At that time, we may have up to 7 days to re-engage such resources.

Limitation of Liability

Liability of us under this contract shall be limited to the value of any fees paid by you to us under this contract. Under no circumstances shall we be liable for lost profits or any incidental, special, punitive, exemplary, or consequential damages, except as set forth in the preceding sentence. Neither party shall be required to indemnify except as required by the express terms of this contract.

T E R M S & C O N D I T I O N S

PAYMENT TERMS

We're sure you understand how important it is as a small business that you pay the invoices that we send you promptly. As we're also sure you'll want to stay friends, you agree to stick tight to the following payment schedule.

- Web Design: 50% deposit before the project is started.
- Web Design: 50% remaining on project completion or once project hour cap is reached, whichever is first.
- Recurring services: On the 1st of each month.

We issue invoices electronically only. Our payment terms are due upon receipt of invoice by Direct Debit or Stripe Card Payments (BACS or the SWIFT international payments system can be used for one-off payments only). We do not accept Cheques or cash. If you have authorised us to take payments via Direct Debit, Stripe or PayPal, we reserve the right to use this method for issuing payments for any money owed to us. All proposals are quoted in pounds (£) and payments will be made at the equivalent conversion rate at the date the transfer is made.

You agree to pay all additional hours of work, at our standard hourly rate of £75 per hour. You also acknowledge that Bird Marketing Limited may recommend 3rd party software or services, to be paid by you upon approval.

You agree to pay all charges associated with international transfers of funds. The appropriate bank account details will be printed on our electronic invoice. We reserve the right to charge interest on all overdue debts at the rate of 5% per month or part of a month.

T E R M S & C O N D I T I O N S

LEGAL SUMMARY

We'll carry out our work in accordance with good industry practice and at the standard expected from a suitably qualified person with relevant experience. That said, we can't guarantee that our work will be error-free and so we can't be liable to you or any third-party for damages, including lost profits, lost savings or other incidental, consequential or special damages, even if you've advised us of them.

Your liability to us will also be limited to the amount of fees payable under this contract and you won't be liable to us or any third-party for damages, including lost profits, lost savings or other incidental, consequential or special damages, even if we've advised you of them.

If any provision of this contract shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this contract and shall not affect the validity and enforceability of any remaining provisions.

Just like a parking ticket, neither of us can transfer this contract to anyone else without the other's permission.

We both agree that we will adhere to all relevant laws and regulations in relation to our activities under this contract and not cause the other to breach any relevant laws or regulations.

This contract stays in place and need not be renewed. If for some reason one part of this contract becomes invalid or unenforceable, the remaining parts of it remain in place.

Although the language in this contract is simple, the intentions are serious and this contract is a legal document under exclusive jurisdiction of English and Welsh courts.



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