

Earthstorm Media Ltd. - Terms & Conditions

1. These Terms and Conditions apply to the Agreement between us pursuant to which we, Earthstorm Media ("the Company") shall provide the goods and services pursuant to your acceptance of the quotation [by signing and returning any quotation / contract or invoice you have accepted as an order of goods set out and agreed to be bound by the Contract including these Terms and Conditions ("Terms")] or by agreeing the terms stated by email confirmation

2. Within these Terms, the following expression shall have the following meanings:

DEFINITIONS:- "Artwork Approval" - The form of proof supplied to you and signed off by way of confirmation of agreement of the artwork to be used within the Contract "Client" - The person or firm ordering the Goods or Services "Company" - Earthstorm Media Ltd. "Contract" - The Order for Goods and Services as set out in the Quotation or not further confirmed by the Purchase Order "Contract Price" - The total of all prices set out for the Goods and Services and Carriage set out on the Quotation as may be varied following Artwork Approval at the sole discretion of the Company. "Goods and Services" - Shall be all those Goods and Services outlined and set out in the Quotation at the prices set out therein or subsequently agreed following final artwork approval. "Invoice" - The final invoice delivered to the Client by the Company at the time of delivery of the Goods ordered. "Terms and Conditions" - These terms herein

3. General

3.1 A Contract shall be created between the Company and the Client upon a written Quotation being accepted by the Client and showing that acceptance or by positively replying by email by return of sent / attached invoice for approval.

4 Contract Price

4.1 The full price payable for the Contract shall be as quoted on the Quotation subject to the Company reserving the right to vary such prices according to any further requirements by the Client pursuant to the Artwork Approval and subject to extra charges for any further or extra artwork required over and above that stipulated on the Quotation. Any such variation shall be advised by the Company in writing.

4.2 The Contract Price may vary within a 10% range according to the actual quantities delivered, being either plus or minus 10% of the amount ordered. The Client accepts that the eventual Invoice may reflect the Contract Price plus or minus 10% of the amount ordered.

4.3 The charge for carriage of the Goods is at cost to the Client and over and above the amount for the Goods ordered and set out in the Quotation unless otherwise stated.

4.4 All prices set out in the Quotation are exclusive of VAT which shall be charged at the current rate. Unless shown to the contrary.

5 Terms of Payment

5.1 The first invoice(s) are payable as 50 % to start an agreed project and 50% at the presentation of the date of any sent Invoices, and by return of any subsequent invoices. Unless an ongoing retainer has been agreed, of which when terms will be as set out within the contract.

5.2 If payment is not made on the due date or as set out above, interest may be charged at the rate of 4% above Base Rate prevailing at the time.

6 Title and Risk to Goods

6.1 Risk passes to the Client immediately upon delivery of the Goods. However, the Goods remain the property and title remains in the Company until payment has been made in full under the Contract. Even upon "Go Live" of online services, and the company reserves the right to disable hosted sites or applications if payment is not promptly received, the company will accept no responsibility for loss of revenue or detriment due to such action.

6.2 Until title of Goods has passed, the Client shall hold the Goods as bailee for the Company. In addition to any rights of tracing, the Company shall be beneficially entitled to the proceeds of sale of the Goods which shall be assigned to the Company. In addition to those rights of tracing, the Company may enter the Client's premises or under the premises under the Client's control in order to recover the Goods [and shall have the right to resell such Goods.] or de-active online services in the companies control as set out above.

7 Delivery

7.1 The Company will make every effort to achieve any quoted delivery dates and execute any obligations set out in the Quotation but will not be under any liability if delivery is delayed or prevented by events beyond their control. For the avoidance of doubt, time shall not be considered of the essence under the Contract.

7.2 Force Majeure

Any delay or failure in the performance by either Party hereunder shall be excused if and to the extent caused by the occurrence of a Force Majeure. For purposes of this Agreement, Force Majeure shall mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, fires, floods, explosions, riots, wars, hurricane, sabotage terrorism, vandalism, accident, illness or death, restraint of

government,

governmental acts, injunctions, labor strikes, other than those of Seller or its suppliers, that prevent Seller from furnishing the works, and other like events that are beyond the reasonable anticipation and control of the Party affected thereby, despite such Party's reasonable efforts to prevent, avoid, delay, or mitigate the effect of such acts, events or occurrences, and which events or the effects thereof are not attributable to a Party's failure to perform its obligations under these terms and standard Earthstorm Media Ltd. quotes and contracts.

8 Liability

8.1 The Company accepts no responsibility whatsoever for any inconsequential loss or indirect damage resulting from the Contract.

8.2 If goods are received by the Client in any way damaged upon delivery, the Client must advise the Company within 24 hours of delivery of the nature of the damage and must retain the Goods as delivered.

8.3 The maximum extent of the Company's liability for damaged Goods will be, at its sole discretion, a return of the Contract Price or replacement of the Goods depending on the circumstances.

9 Cancellation

9.1 No Contract may be cancelled as of right following confirmation and agreement of the Quotation. As set out above. At the Company's sole discretion, a Contract may be cancelled either wholly or in part subject to timing.

10 Inability to Deliver

10.1 If for any reason the Client refuses to accept delivery of the Goods, then the Company reserves the right to charge for any costs incurred for storage, hosting, additional handling or transport charges.

10.2 The Company does not offer any guarantee whatsoever with regard to the Goods unless specifically agreed otherwise and stated on the Quotation.

11. THE COMPANY'S OBLIGATIONS

In consideration of the customer paying sums due to the company under the contract the company will:

11.1 Perform the service(s) specified in the quotation on the input provided.

The company will in no way guarantee the results of any campaign or piece of activity.

11.2 Send the output and carry out the customer's instructions regarding input provided.

12 Digital

12.1 Digital services will adhere to the standards set under the GDPR guidelines

12.2 Ownership of digital assets will be passed to the customer after a satisfactory payment has been made that meets the figures quoted except where licensed products have been traded.

12.3 Licensed products will remain the intellectual property of Earthstorm Media Limited and a license will grant the license holder access to the use of such software for the period of which Earthstorm Media are the sole contracting party to maintain, develop and host the software.

12.4 Transfer of licensed digital assets is not possible. If a product such as a Content Management System (CMS) relating to a website for example is purchased, the HTML page templates and content relating to those templates will be transferable and wholly owned by the purchasing entity the CMS will not be owned or transferred to the purchasing entity for any reason and license will expire as soon as services with Earthstorm Media Limited have ceased or contracts have ended.

13 Miscellaneous

13.1 These terms, the Quotation and any other document specifically referred to in any of those documents shall constitute the Contract and entire agreement between the parties and supersede any previous agreement or understanding.

13.2 Any notice required to be given to either party shall be addressed in writing to the Company at its registered office appearing above and to the Client at the address details given on the Quotation.

13.3 No failure or delay by the Company in exercising any of its rights under these Terms shall be deemed a waiver of that right. No waiver by the Company of any breach shall be considered a waiver of any subsequent breach.

13.4 If any provisions of these Terms are unenforceable, such provision shall be severed from the agreement and the remainder of the provisions shall remain in full force and effect.

13.5 These Terms shall be construed in accordance with English Law and the parties submit to the non-exclusive jurisdiction of the English Courts.

13.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to this agreement.

13.7 The Company may assign its rights and obligations under these Terms and in particular may use the services of Associates, but the Client may not assign its rights or obligations under this agreement without the express written consent of the Company.

13.8 All support and after sales care will be at the discretion of the company and the company may refuse any support or aftercare if the project goods or services are provide in part or in conjunction with a third party supplier or for any reason deemed necessary by the company.