

MARATOPIA WEB DEVELOPMENT TERMS AND CONDITIONS

Version: 2021

Thank you for choosing Maratopia Digital Marketing LTD for your website development.

These terms and conditions apply to all website development services provided by Maratopia, and we advise you to read them carefully.

1. Definitions

In these Terms and Conditions, the following definitions apply:

You / The Customer / The Client	The person or firm who purchases Services from the Supplier
Us / We / The Supplier	Maratopia Digital Marketing LTD
The Project / The Service(s)	The body of work being undertaken. Usually consisting of several connecting elements, such as, but not limited to design consultation, graphic design, website development, website launch, hosting, user experience and conversion rate optimisation. The exact nature of the Project or Service(s) will be set out in your Contract
Charges	The charges payable by the Customer to the Supplier for the supply of Services in accordance with your Contract
Commencement Date	The date on which the Project or Service(s) begins
Deliverables	The specific elements that make up the Project or Service(s)
Contract	A document outlining the key details of the agreement between You and Us for the supply of Service(s)
Specification	The description or specification of the Project or Service(s) as set out in your Contract
Design Sign Off	A form to be supplied by the Supplier and signed by the Customer to confirm that the Customer is satisfied with the design element of the Project
Development Sign Off	A form to be supplied by the Supplier and signed by the Customer to confirm that the Customer is satisfied with the development element of the Project
Business Day	A single day from 09:00 to 17:00, Monday to Friday and excluding bank holidays
Project Timeline	An estimated timeline for the completion of the Project or Service(s) that will be supplied with your Contract
Design Revisions/Round of Changes	A set time for the Customer to provide feedback to the Supplier on proposed or submitted work. The number of allowed Rounds will be pre-determined and clearly communicated in your Contract

2. Basis of Contract

- 2.1. There shall be no contract between the Customer and Supplier until such time as the Supplier has issued written confirmation to the Customer that the Customer's order for Services has been accepted and on which date the Contract shall come into existence (Commencement Date).
- 2.2. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract. The Customer further acknowledges that the Contract excludes any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.3. Any samples, demos, mock-ups, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained on the Supplier's website, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.

3. Supply of Services

- 3.1. The Supplier shall supply the Services to the Customer in accordance with the Specification in all material respects.
- 3.2. The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Project Timeline, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.3. The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 3.4. The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill and in accordance with the Specification.
- 3.5. Where a Round of Changes is applicable, the Supplier shall deliver the Project in its existing state to the Customer and request feedback. The changes allowable will differ depending on the level of Project or Service(s) You have purchased, and will be clearly outlined in your Contract.
- 3.6. Where an additional Round of Changes is required, or desired changes are not covered within the reasonable scope of a Round of Changes, the Supplier reserves the right to apply additional charges, and will communicate these in writing before commencing any work.
- 3.7. The Supplier accepts no liability for third party services, nor do We give any warranty or guarantee as to the quality or suitability of such services, whether provided through the Supplier or directly to the Customer. This includes, but is not limited to the hosting of the Customer's website, domain name providers / registrars, website software, plugins, frameworks, code libraries, security frameworks & SSL certificate providers, and third party payment gateways.
- 3.8. We test Deliverables in current versions of major desktop, tablet and mobile browsers including the latest versions of:

Desktop

- Safari (Apple)
- Chrome (Google)
- Firefox (Mozilla)
- Microsoft Edge (Microsoft)

We do not support legacy browsers including Internet Explorer (IE7, IE8, IE9, IE10 & IE11) and lesser used browsers such as Opera unless specifically agreed and detailed in the Specification. Additional charges may apply and will be stipulated in your contract.

Tablet

- iOS: Safari, Chrome, Firefox
- Android 4.x, Chrome, Firefox

Mobile

- iOS: Safari, Chrome, Firefox
- Android 4.x, Chrome, Firefox

We do not test on Blackberry, Opera Mini/Mobile, Windows Phone or other mobile browsers unless specifically agreed and detailed in the Specification. Additional charges may apply and will be stipulated in your contract.

- 3.9. Browser testing by the Supplier does not guarantee future and continuing performance of the Deliverables on all systems. The Supplier accepts no liability for on-going performance or quality and gives no warranty or guarantee in this regard.
- 3.10. Where the Services include a website launch, this shall be scheduled to be carried out on a Monday, Tuesday or Wednesday before midday to ensure that support is available to the Customer in relation to any launch-based issues that may arise. In the event that the Customer requires a website launch at any other time, provision of this service shall be scheduled at the Supplier's discretion and additional charges may apply and will be set out by a supplementary document.
- 3.11. Unless otherwise set out or pursuant to a contract for a maintenance retainer provided by the Supplier, the Supplier does not accept liability or responsibility for on-going support and maintenance to Deliverables including but not limited to:
 - Taking back-ups of your site, content and database
 - Updating the CMS
 - Updating plugins, extensions or other software required for your site
 - Ensuring that your site Admins are using secure passwords
 - Form testing and maintenance
 - Ensuring all site functionality is working as intended including eCommerce functionality and receipt of payments; or
 - Communicating with any third party that hosts your website should any hosting issues arise

The Customer acknowledges that the Supplier shall not accept liability for any site updates (including but not limited to plugin updates) whether installed manually by the Client or automatically via third party and that such updates may cause the Deliverables to stop working as intended.

- 3.12. The Supplier does not accept any liability for third party services commissioned by the Customer on the Deliverables or for any damage or defect caused by any third party to the Deliverables. Where the Supplier agrees to provide remedial services to damage or defects caused by a third party, these shall be confirmed in writing together with applicable charges.
- 3.13. The supplier includes a three-month warranty period for website development projects. Under this provision the Supplier commits to performing routine bug fixes and plugin updates upon which the proper function of the website, as detailed in the Specification, is directly dependent. This provision

does not entitle the Customer to website updates, maintenance or changes that are not critical to the function of the proper function of the website; or that are outside of the scope of the original Project Specification. This period shall begin on the date that the Development Sign Off is received from the Customer, or the date the website is launched; whichever comes first.

4. Client Responsibilities

- 4.1. The Client shall:
 - 4.1.1. Ensure that the scope of project and payment items included on the contract are complete and accurate.
 - 4.1.2. Supply all materials requested by the Supplier required to provide the Service. These may include, but are not limited to images, photography, written content, fonts, logos, design questionnaires.
 - 4.1.3. Cooperate with the Supplier in all matters relating to the Service.
 - 4.1.4. Provide all work reviews, feedback, and sign off approval in a timely manner.
 - 4.1.5. Acquire any necessary licenses to enable the legal and authorised use of any materials required for the completion of the Project. This may include, but is not limited to fonts, image rights, photographs and videos.
 - 4.1.6. Complete and return the Design Sign Off and Development Sign Off within 10 working days of receipt. The Supplier must have received and approved both the Design Sign Off and Development Sign Off prior to a website (or other Deliverable) "going live" or otherwise being utilised by the Customer (other than for testing purposes).
- 4.2. If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (henceforth referred to as the Customer Default):
 - 4.2.1. The Supplier shall, without limiting its other rights or remedies, have the right to suspend or delay performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations.
 - 4.2.2. The Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 4.2; and
 - 4.2.3. The Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 4.3. Where the Customer Default results in a delay of more than 25 Business Days, the Supplier is entitled to invoice the Customer for Services provided and work done to the date of the Customer Default.
- 4.4. The Customer shall be deemed to have approved the Deliverables on the date that the signed Development Sign Off is returned to the Supplier in accordance with clause 4.1.6, with no material requests for amendments, variation or further development in order to comply with any applicable Specification (in the reasonable opinion of the Supplier) OR, in the event that the Development Sign Off is not returned within 10 Business Days of delivery to the Customer, on the 11th Business Day following such delivery. Any Services required by the Customer after this date shall be subject to additional charges at the discretion of the Supplier.
- 4.5. The Customer acknowledges that only in the event that the Deliverables do not meet the Specification will the Supplier engage in further Services inclusive in the contracted price. Any services required outside of the Specification shall incur additional charges which will be clearly outlined by the Supplier before any such work is undertaken. The Customer shall not unreasonably reject Deliverables supplied by the Supplier under the Contract.

5. Charges and Payment

- 5.1. The Charges for the Services and arrangements for payment terms will be set out in your Contract.
- 5.2. Where a deposit is required from the Customer, the Supplier reserves the right not to commence work until such time as that deposit is received.
- 5.3. The Supplier's standard fee is calculated per hour on the basis of an eight-hour day from 09:00 to 17:00 worked on Business Days.
- 5.4. The Supplier shall be entitled to charge an overtime rate up to 50% for any time worked outside of the hours referred to in clause 5.3 when required to by the Client. (Either by request, or by consequence of the Customer Default referred to in clause 4.2).
- 5.5. The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 5.6. In the event that the Customer requests a material change to the Services after the Commencement Date, the Supplier reserves the right to increase its charges. The Supplier will give the Customer written notice of any such increase and, in the event that the Customer does not accept the corresponding increase in charges, the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving written notice to the Customer.
- 5.7. Unless otherwise confirmed in the Contract, the Customer shall pay each invoice submitted by the Supplier: within 15 days of the date of the invoice; and in full and in cleared funds to a bank account nominated in writing by the Supplier.
- 5.8. All quoted amounts payable by the Customer under the Contract are exclusive of value added tax chargeable (VAT). Unless exempt, the invoices supplied by the Supplier shall include VAT at the current rate and such amounts are chargeable at the same time as payment is due for the supply of the Services.
- 5.9. If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Supplier retains the right to charge interest on the overdue amount at the rate of 15% per annum. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount is received in full.
- 5.10. Title in the Deliverables which are assigned shall only pass to the Customer on payment of the Charges in full. In the event that the Customer remains in default for more than three months, the Supplier reserves the right to suspend the Deliverables and/or withdraw any applicable licence for the use of the Deliverables.
- 5.11. The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

6. Intellectual Property Rights

- 6.1. Subject to Section 1 and clauses 6.2 to 6.5 below, all Intellectual Property Rights in the Deliverables shall be owned by the Supplier until such time as they are paid for in full by the Customer. At such time, they will be fully assigned to you. All Intellectual Property Rights which are not bespoke to the Deliverable in question (including pre-existing and licensed Intellectual Property Rights) shall not be included within such assignment. These shall be owned by the Supplier and must not be copied, published, distributed or passed to any third parties in any form without prior written consent from the Supplier.
- 6.2. For the avoidance of doubt, any assignment of Intellectual Property Rights shall not include such rights in any source files unless expressly agreed with the Supplier.

- 6.3. Any assignment and/or licencing of Intellectual Property Rights to the Customer shall not take effect until the Customer has paid all charges due to the Supplier in full.
- 6.4. The Customer acknowledges that, in respect of any third-party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to licence such rights to the Customer.
- 6.5. All Supplier Materials are the exclusive property of the Supplier. Where the Customer supplies copy, graphic images, registered company logos, names and trademarks or any other materials ("Customer Materials") to the Supplier for the provision of the Services, the Customer warrants that it has obtained all necessary permissions and authorities in respect of the Customer Materials, and use of all it supplies, to the Supplier. The Customer further licences the Supplier to use the Customer Materials for the purposes of providing the Services. By agreeing to these Terms and Conditions, the Customer indemnifies for, and relieves the Supplier from, any legal liability and any damage including legal costs incurred in respect of any claims or legal actions however related to the Deliverables through the use of the Customer Materials.
- 6.6. The Supplier reserves the right to place an unobtrusive link to their own website at the bottom of the completed Project.
- 6.7. If a Customer requests that the design credit be removed, a nominal fee of 20% of the total development charges will be applied.
- 6.8. The Customer also agrees that the Project may be presented in a portfolio or as a case study for the Supplier.

7. Confidentiality

- 7.1. You shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to You by Us, our employees, agents or subcontractors, and any other confidential information concerning the Supplier's business, its products and services which You may obtain. You shall only disclose such confidential information to those of your employees, agents and subcontractors who need to know it for the purpose of discharging the Customer's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. You may also disclose such of the Supplier's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction or with the prior written consent of the Supplier. This clause 7 shall survive termination of the Contract.
- 7.2. Any proposals made by the Supplier shall constitute trade secrets and remain the property of the Supplier. The Customer shall not disclose proposals or related materials, including but not limited to technical features, functionality and design and pricing information, to any third party without the prior written consent of the Supplier.

8. Limitation of Liability

- 8.1. Nothing in these Conditions shall limit or exclude the Supplier's liability for:
 - death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - fraud or fraudulent misrepresentation; or
 - breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 8.2. Subject to clause 8.1:
 - the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss, to include but not be limited to any loss relating to failure of or the

Customer's misuse of the Deliverables, and arising under or in connection with the Contract; the Supplier shall not accept liability to the Customer for any loss or damage suffered arising from defects not notified to it prior to the Development Sign Off deadline in any event or through the Customer's failure to comply with the terms of this Contract; and the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of sums already paid under the Contract at the date of the liability being incurred.

- 8.3. The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.
- 8.4. The Customer acknowledges that, in the absence of the Customer paying the Supplier for a maintenance contract, the Customer is solely responsible for ensuring that its data is regularly and effectively backed-up and protected and that it is its own duty to mitigate any loss suffered through use, misuse or failure to use the Deliverables.
- 8.5. The Supplier may be engaged to carry out remedial works to any damaged or defective Deliverables at charges as set out by the Supplier.
- 8.6. This clause 8 shall survive termination of the Contract.

9. Termination

- 9.1. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:
 - the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach upon being notified in writing to do so;
 - the Customer becomes or is reasonably believed to be about to become subject to Insolvency proceedings to include administration, receivership or other voluntary arrangement with creditors;
 - the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
 - the other party's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 9.2. Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 7 days after being notified in writing to do so.

10. Consequences of Termination

- 10.1. On termination of the Contract for any reason:
 - 10.1.1. The Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt.
 - 10.1.2. The Customer shall return all of the Supplier Materials and any Deliverables which have not been fully paid for.
 - 10.1.3. Subject to the Customer complying with clauses 10.1.1 and 10.1.2 above, the Supplier shall provide the Customer with the source code and a perpetual licence to use that source code, where applicable and requested by the Customer for the Customer's own use and not for distribution or resale.
 - 10.1.4. The accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall be unaffected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

clauses which expressly or by implication survive termination shall continue in full force and effect.

11. Force Majeure

- 11.1. For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, acts of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- 11.2. The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- 11.3. If, in the event that a Force Majeure Event, the Supplier cannot provide the Services to the Customer for a period of 25 Business Days or more, either party may terminate the contract.

12. General

- 12.1. Assignment and other dealings.
 - 12.1.1. The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.
 - 12.1.2. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.
- 12.2. Notices.

Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
- 12.3. Severance.

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 12.4. Waiver.

A waiver of any right under the Contract or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 12.5. No partnership or agency.

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 12.6. Third parties.

A person who is not a party to the Contract shall not have any rights to enforce its terms.

- 12.7. Variation.
Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the Supplier.
- 12.8. Governing law and Jurisdiction.
This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.
Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).