

INTERNET SERVICES TERMS AND CONDITIONS

These Terms and Conditions of Business apply specifically to internet and website services and products provided by Elysium Business Technologies Limited to its' customers. These Terms and Conditions of Business are supplemental to Elysium Business Technologies Limited Standard Terms and Conditions of Business and should be read in conjunction with those.

When you see the use of the words: '**Us**', '**We**' or '**Our**' then it means Elysium Business Technologies Limited whether trading as Elysium:Online or otherwise; '**You**' or '**Your**' then it means **you**, our customer, whether a direct customer or through a **third party**; '**third party**' then it means another organisation with whom **you** or **we** have a contract to supply goods and/or services.

IMPORTANT NOTES: Amongst other things, **these Terms and Conditions limit and exclude our liability**. It is important that **you** read them and understand what they are saying and arrange any insurance cover **you** decide **you** need to protect **your** interests. If **you** are in any doubt about what they mean please contact **us** before **we** start doing any work for **you**. No variation of these terms and conditions will be valid unless confirmed in writing by authorised signatories of both parties on or after the date of a contract.

The heading or description **we** have used for each clause is there just for convenient reference only.

1 DEFINITIONS

In these **Internet Services Terms and Conditions** the following terms shall, unless otherwise stated, have the following meanings :

"**Acceptance**" means the obligation on you to confirm in writing your acceptance and satisfaction with the Services before we make final delivery of them to you.

"**Contract**" means any agreement between **us** and **you** for the supply of products and/or services which expressly or by implication incorporate these terms and conditions.

"**Customer**" means the party named on the invoice.

"**Delivery address**" means the address that we will be expected to deliver goods and/or services.

"**Delivery date**" means the date by which the goods and/or services are expected by.

"**Hardware**" means the good supplied including spare parts, supplies and documentation

"**Installation**" means **our** uploading and installing software that **we** or somebody else has written, on to **your** computer or server.

"**Intellectual Property**" means all copyrights, related rights, designs, logos, patents, trade marks, trade names, database rights, and other similar intellectual property rights (whether registered or not) in relation to the Services or Site.

"**Invoice**" issued to **you** requesting payment(s) indicating goods and/or services provided.

"**Services**" means any work **we** do for **you** including any advice **we** give **you** (whether or not **we** charge **you** for that advice) or software updates, bug fixing, search engine optimisation or any other services.

"**Site**" means an online shop or web site that **we** create for **you** on the internet.

"**Site Information**" means any text or graphics (including product information) **you** supply to **us** for display as part of **your** Site.

"Software" means any code written by, for, on behalf, or retailed by **us**.

"Website" means any web site or web application written by **us** for **you**.

2 RESTRICTIONS ON YOU/YOUR SITE

- 2.1 **You** must be over 18 years of age to apply for and operate **your** Site.
- 2.2 **You** will not use the Services or the Site to:
- Threaten, insult, criticise or defame anybody or in any way violate anybody's rights to privacy ("anybody" in this Clause 2 includes any organisation as well as any individual)
 - Promote racist, sexist, ageist, obscene or what we consider to be "adult content" or "warez" language or graphics
 - Infringe any intellectual property rights of anybody
 - Breach any statutory provision or regulation
 - Sell, promote or engage in any illegal activity, including but not limited to the sale of illegal goods, stolen merchandise or known defective products
 - Make false claims about any product or service sold or advertised using the Site
 - Forward or cause the forwarding of any email, or other form of communication, containing personal details of anybody without their express consent
 - Send unsolicited email, or use any other technique commonly known as "spamming"
- 2.3 **We** do not accept any liability for any communications of any type **you** send to anybody using the Site or for errors in Site Information or for errors contained in **our** website, however such errors have arisen.
- 2.4 **We** can refuse to accept or to delete any Site Information at any time at **our** sole discretion.
- 2.5 **You** will not sell, distribute or licence **our** software or Services except for source code specifically covered by the GNU General Public Licence (GPL).
- 2.6 **You** will be responsible for backing up **your** data before **we** start any work for **you**.

3 OUR CHARGES

- 3.1 Creating a Site.

Our site development charges are split into 2 parts:

- (i) A set-up fee which covers the cost of design, configuration and email technical support for **your** Site for 30 calendar days after **we** activate it on the Internet
- (ii) A hosting fee which covers web site hosting, related services and hosting related technical support.

The set-up fee is payable in 3 parts : 50% or £500 whichever is the greater when **you** accept **our** quotation, 40% on implementation of the website and the remaining 10% on Acceptance.

The hosting fee is payable 1 month or 12 months in advance.

If, after telling **us** what **you** want **us** to do, **you** either reject the designs **we** produce (which meet those requirements) for aesthetic reasons or if **you** change **your** original requirements **we** will make extra charges for redoing the work

3.2 Writing Software

The software writing fee is payable in 2 parts:

- (i) 50% or £1000 whichever is the greater when **you** accept **our** quotation
- (ii) The remaining 50% (or a greater amount if the original price **we** gave **you** has been exceeded, as below) on Acceptance

In some circumstances **we** may need to revise the original price **we** gave **you** as the work progresses and give **you** the opportunity not to proceed further if **you** refuse to accept any revised price. If **you** decide not to proceed further **you** must tell **us** in writing and immediately pay **us** what you owe **us** up to that date.

3.3 Installing Pre-written Unmodified Software.

Any pre-written unmodified software **we** supply to **you** will be invoiced on or after the date of **your** acceptance of such and become subject to our Standard Terms and Conditions of Business.

3.4 Supplying Hardware And Other Equipment.

Any hardware and other equipment **we** supply to **you** will be invoiced on or after the date of **your** acceptance of such and become subject to our Standard Terms and Conditions of Business.

4 OVERDUE PAYMENT

4.1 If **you** do not pay **us** any money that **you** owe **us** on time then :

- (a) Seven days after the due date **we** can suspend **your** Site if **we** host it
- (b) Fourteen days after the due date **we** can delete **your** Site and this will end the contract between us.

4.2 If **we** decide to suspend or to delete **your** Site then **we** do not have to give **you** any notice that **we** are going to (or have done so); it will not cancel **your** obligation to pay **us** everything **you** then owe **us** and neither will it mean that **we** have to repay **you** the money **you** have already paid **us**.

4.3 **We** will charge **you** a re-connection fee of £50 when **you** have paid **us** everything **you** owe **us**.

5 TECHNICAL SUPPORT

5.1 **We** will provide 30 days of email technical support from the date **your** Site goes live provided **you** have paid **us** everything due to **us**.

5.2 On request **we** will provide **you** with general hosting support after the initial 30 day period provided **you** have paid **us** in advance our hosting charges.

5.3 **You** are responsible for making sure **your** equipment is properly configured to use **our** Services.

5.4 **Our** technical support may be limited if an unreasonable demand causes a detrimental effect on the support provided to **our** other customers.

5.5 There is no technical support at all for Installation.

5.6 For software updates any technical support is limited to that element of the software **we** have updated for **you**.

6 HOSTING

6.1 **We** reserve the right to sub-contract hosting services and may change the sub-contractor at any time without giving **you** notice.

6.2 **We** may alter the type of hosting account used for **your** site if it uses an unusually high level of bandwidth or large amount of web space. Additional fees may become payable if **we** tell **you** that **your** Site has a data transfer rate (bandwidth) or a web space usage either of which exceed **your** account limits.

6.3 **We** will not host any Site that causes detriment to the operation of any other sites or systems. It is **your** responsibility to store independent back up files of **your** data unless you have a specific agreement with **us** to back up your site.

6.4 **We** reserve the right to terminate or suspend the hosting of **your** Site without prior notice if **you** don't comply with these Terms and Conditions or if **we** consider it necessary to protect **our** business. If that happens **we** will tell **you** in writing.

6.5 **We** can suspend the Services during any technical failure, modification or maintenance from time to time and without giving **you** notice.

6.6 **We** do not promise or guarantee that **you** will always have uninterrupted, error free Services.

6.7 If **you** have ordered hosting on a 12 month subscription **we** expect **you** to commit for this period of time. If **you** wish to cancel **your** subscription within this service period **we** will not make any refunds for any unused portion of the subscription period. Whilst **we** do not offer a refund **you** have no obligation to continue using **our** services.

6.8 **You** will remain liable for all hosting charges during any period of interruption or suspension.

6.9 **We** will not be liable for any consequential loss arising as a result of any technical failure, modification or maintenance. **You** should make arrangements to insure against such events.

6.10 **We** reserve the right to terminate without notice **your** hosting account, remove all related Site Information and Site content if **you** breach these Terms and Conditions.

6.11 **We** are not liable for any lost or stolen payment details and personal information. The responsibility for **your** customer details lies with **you**.

6.12 If **you** choose to move **your** domain and/or web site to another web host, **we** will not effect the transfer until all outstanding monies that **you** owe to **us** or a **third party**, in respect of **your** domain and/or website, have been paid.

7 DOMAIN NAME

7.1 The rights to use **Your** domain name(s) remain(s) with **you**.

7.2 If **we** are to try to register or obtain a domain name for **you** then that will be a name chosen by **you**, is subject to both the terms and conditions of the relevant registrar and any third party claims there may be in respect of trademark, copyright, and/or passing off.

- 7.3 **You** acknowledge and warrant that **you** have made all investigations and considered any competing claim there may be in respect of **your** chosen domain name by third parties whether in the UK or elsewhere. We reserve the right to suspend **your** domain name if **we** are told of any competing claim to it.
- 7.4 If **you** want **us** to register a '.uk' domain name **you** must follow the Nominet 'Terms and Conditions'.
- 7.5 **We** will, free of charge, use **our** reasonable endeavours to transfer **your** domain name to another provider within 5 working days after receiving written notice from **you** to do so, subject to 6.12 above. Our efforts in regard to this are limited to amending the IPSTAG to that of the recipient host. It is your responsibility to ensure that **your** website, databases and content are transferred to the new host.
- 7.6 **We** do not accept any responsibility for any loss of data (either from **your** web space or **your** emails) that happens when **we** are transferring **your** domain name to or from **us**.

8 TITLE TO GOODS

- 8.1 The title of the goods, bespoke software, web sites and web site amendments written exclusively by **us** for **you** shall remain **our** property until payment is made in full and all/any taxes/duties are also paid, whether the contract to supply exists directly between **us** and **you** or through a **third party**.
- 8.2 No title or ownership to and goods and/or services or any software license agreement supplied under this contract may be transferred and/or sub-licensed.
- 8.3 Until such time as title for physical goods passes to **you**, **you** shall hold the products as **our** fiduciary agent and bailee and shall keep the products separate from those of **yours** and third parties and be properly stored, protected and insured and identified as the property of Elysium Business Technologies Ltd. Until that time, **you** will be entitled to resell or use the products in the ordinary course of **your** business but shall account to **us** for the proceeds of sale or otherwise of the goods, whether tangible or intangible, including insurance proceeds, and shall keep all such proceeds separate from any monies or property of **yours** and **third parties** in the case of tangible proceeds properly stored, protected and insured.
- 8.4 Until such time as title in the physical goods passes to **you** (and provided the products are still in existence and have not been resold), **we** shall be entitled at any time to require **you** to deliver up the products to **us** and if **you** fail to do so forthwith to enter upon any premises of **yours** or any third party where the products are stored and repossess the products.
- 8.5 **You** shall not be entitled to pledge or in any way charge by way of security or any indebtedness any of the products which remain the **our** property but if **you** do so all monies owing by **you** to **us** shall (without prejudice to any other right or remedy of Elysium Business Technologies Ltd) forthwith become due and payable.
- 8.6 **We** shall retain the title to any equipment hired by **you**.

9 PROMOTION

- 9.1 **You** agree that a link to **your** Site, together with extracts from **your** Site, can be featured on **our** web sites for promotional purposes without any payment becoming due to **you**.

- 9.2 Where we create a Site for **you** then **you** agree to retain in a prominent position a link from **your** website back to **our** website.

10 INTELLECTUAL PROPERTY

- 10.1 **You** have sole title and ownership of all Intellectual Property Rights previously held by **you** and all Intellectual Property Rights created or developed by **you**.
- 10.2 **We** have sole title and ownership of all Intellectual Property Rights created, developed or supplied by **us**.
- 10.3 **We** will allow **you** the non-exclusive right to use the specific designs that **we** have created for **your** website but **we** reserve the right to supply **our** library designs to **our** other customers.
- 10.4 Where **we** undertake the design of **your** site, **we** will ensure that all images contained in the design are either royalty free or that we have paid the appropriate copyright fees to allow the image(s) to be used. Where **we** employ third parties to undertake the design of **your** site **we** will endeavour to ensure that all images are either royalty free or that the appropriate copyright fee has been paid – however **we** will not guarantee this and **we** will not be liable for the subsequent payment of any copyright fees after **we** have handed the site to **you**. **We** will tell you where **we** have used a third party to design your site.
- 10.5 The Intellectual Property in any and all bespoke software, web sites and web site amendments written exclusively by **us** for **you** shall remain **our** property until payment is made in full and all/any taxes/duties are also paid, whether the contract to supply exists directly between **us** and **you** or through a **third party**.

11 LIMITING AND EXCLUDING OUR LIABILITY

- 11.1 IN NO EVENT SHALL EITHER **US** OR **YOU** BE LIABLE TO THE OTHER, REGARDLESS OF THE FORM OF CLAIM OR ACTION, FOR (i) LOST PROFITS, BUSINESS, OPPORTUNITIES, OR REVENUES OF ANY KIND, (ii) LOST SAVINGS; (iii) LOST SOFTWARE OR DATA; (iv) LOSS OF USE OF HARDWARE, SOFTWARE, SYSTEMS OR DATA OR (v) ANY INDIRECT OR CONSEQUENTIAL LOSS HOWEVER CAUSED AND WHETHER OR NOT THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 11.2 **We** are not liable if **we** either cannot do (or there is a delay in completing) the Services because, either, **we** are waiting for **you** to supply **us** with information **we** have asked **you** to provide or because of any circumstances beyond **our** control. Without limiting the foregoing some examples of those circumstances are illness, Act of God, war or terrorist action or the threat of it, lockout, strike or any other labour dispute, flood, drought, fire, failure or interruption of power supply, failure of third parties to supply either software, design work or other materials or facilities, court order or legislation .
- 11.3 If any circumstances beyond **our** control happen **you** can choose to terminate the Services by telling **us** in writing and pay **us** for the work **we** have done for **you** up to that date but, if **you** don't, then **you** agree to accept delivery of the Services when it becomes available.
- 11.4 **Our** liability for the Services is limited to the price **we** charge **you** for doing that work. If any work **you** pay **us** to do is found to be defective **we** will repeat that work at **our** cost.
- 11.5 **We** provide **you** with services for the design, configuration and hosting of **your** Site. This does not mean that **we** guarantee that **you** will sell any or any minimum quantity of **your** products/services using **your** Site. That type of commercial risk is **yours** alone.

11.6 Nothing in this Clause is intended to try and limit **our** liability to **you** for death or personal injury caused by **our** negligence.

12 SECURITY

12.1 **We** provide the means for **you** to sell products or services online in a secure environment, but any sale or commercial arrangement that takes place using the Site is between **you** and **your** customers. **We** are not liable for any costs, expenses, damages or compensation that may become payable between **you** and **your** customers through the use of the Site.

12.2 **You** agree to keep secure all the information **we** give **you** relating to **your** account with **us** (login, password and other identifying information).

12.3 **Your** rights are personal to **you** and non-transferable.

13 FORCE MAJEURE

13.1 **We** shall not be liable for the failure to perform **our** obligations in the event such performance is prevented or hindered by reasons of force majeure. Force majeure shall be deemed to mean all causes beyond **our** reasonable control including (without prejudice to the generality of the foregoing any delays arising from the act, omission or default of any of **our** suppliers) illness, Act of God, war or terrorist action or the threat of it, lockout, strike or any other labour dispute, flood, drought, fire, failure or interruption of power supply, failure of third parties to supply either software, design work or other materials or facilities, court order or legislation.

13.2 **We** are not liable if **we** either cannot do (or there is a delay in completing) the Services because, either, **we** are waiting for **you** to supply **us** with information **we** have asked **you** to provide.

14 CONFIDENTIALITY

14.1 Each party shall treat as confidential all information obtained from the other pursuant to any contract and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent provided that this clause shall not extend to negotiations leading to the contract, which is already public knowledge or becomes so at a future date (otherwise than a result of a breach of this clause). Each party shall ensure that its employees are aware of and comply with the provisions of this clause. The foregoing obligations as to confidentiality shall survive any termination of the contract.

14.2 **You** agree to keep secure all the information **we** give **you** relating to **your** account with **us** (login, password and other identifying information).

15 AMENDMENTS

15.1 **We** reserve the right to amend or change these Terms and Conditions at any time without notice by putting them on **our** website and sending **you** a copy.

15.2 No amendments or additions to these Terms and Conditions that **you** suggest takes effect unless **we** accept them in writing.

15.3 If **you** find any new or changed Terms and Conditions unacceptable **you** can end **your** subscription at any time by telling **us** in writing; **we** will give **you** a pro rata refund of the unexpired portion of **your** subscription. **You** agree that, except for this refund, **you**

will not make any claims for compensation because of the cancellation or withdrawal of **your** subscription.

16 CONFIDENTIALITY

16.1 **You** and **we** agree to treat all information about the other's business as strictly confidential. As far as is possible, both of us will make sure that all persons who **you** or **we** need to disclose any information to agree to be bound by these terms of confidentiality.

17 SEVERABILITY

17.1 In the event that any part of a contract be determined invalid, unlawful or unenforceable to any extent, such terms, conditions or provision shall be severable from the remaining terms, conditions and provisions which shall continue to be valid and enforceable to the fullest extent permitted by law.

18 GOVERNING LAW

18.1 The contract shall be subject to and interpreted in accordance with English law and the parties hereby irrevocably submit to the exclusive jurisdictions of the English Courts in all matters arising out of the contract.

19 NOTICES

19.1 Any notice to be served by either party pursuant to a contract is to be sent by registered mail, fax or secure electronic mail to that other party at their usual address of business.

20 COMPANY DETAILS

Company Name :	Elysium Business Technologies Limited
Registered :	In England and Wales number 05001597
Trading Address :	Unit 2, Home Farm, Sywell, Northampton, NN6 0BQ
Telephone Number :	+44 (0)845 224 9876
Email :	webstuff@elysium.co.uk

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