

Standard Terms and Conditions

1. Virtual Application Design & Build

1.1 After commencement of this Agreement Virtual Business Applications Ltd (now known as VBA), if required, agree with the client a "Plan to Completion" setting out certain activities and timescales. VBA will then design a web application. It is important that the client considers carefully their right to use material in each of the various options. Accordingly, the client is responsible for obtaining all consents, permissions and clearances in relation to the use of all materials you supply to VBA for use. The client shall be responsible for complying with all relevant legislation and regulations in relation to their design and content and the ongoing use of and access to their web application and textual information including but not limited to data protection regulations. The client shall be responsible for ensuring none of the materials supplied is defamatory, indecent or in breach of copyright and will thus indemnify VBA against all and any losses incurred by VBA in relation to the use of any such materials or arising out of VBA providing the Services to the client's specific requirements or instructions.

1.2 Where there is a "Plan to Completion" and it contains a timetable, whilst VBA will use all reasonable endeavours to meet the relevant dates time will not be of the essence in relation to this timetable and VBA shall be entitled to amend the timetable where failure to meet the due dates is due to inaction of the client or due to third parties or due to other circumstances beyond VBA reasonable control.

1.3 The performance of VBA work in relation to the Design, Sales & Marketing is subject to the client providing all materials (this shall include text, graphics, photographs and any other content) and all other necessary data, information, input and decisions as are required of the client. The client agrees to provide these promptly and accurately and will nominate a contact for us to deal with who will act on their behalf and will be authorised to make decisions on their behalf. To avoid any doubt, we will not be liable for any loss arising from material, data, information, input or instructions supplied by or on behalf of the client which is incomplete, inaccurate, illegible, out of sequence or in the wrong form.

1.4 Text supplied by the client shall be typed up in a word processing application (notepad, word) and supplied in a recognised and commonly used electronic format. Graphics shall be provided in a commonly used format to be mutually agreed. Photographs shall be provided on prints or such other commonly used format to be mutually agreed. Any other media or content shall be provided in a commonly used format as mutually agreed.

1.5 On receipt of all materials and others required in terms of Clause 1.3 VBA when

constructing a application will prepare the site, which shall be as detailed in the Proposal previously agreed. VBA will "post" the content on the draft web application and prepare designs and layout as appropriate. In the case of design for print & Sales & Marketing plans VBA will provide visuals or reports after completion of a signed agreement giving VBA the authorisation to do so at an agreed cost as per the quotation provided which requires and authorised signature.

1.6 With specific reference to a application on completion of the draft site it shall be posted to a test site on the Web (on a server selected by VBA) for testing and approval and you shall have a period of seven days following our intimation of such posting to request any corrections or alterations required in terms of the contract to be implemented and which failing or following any reasonably required correction and alterations the site or section shall be deemed to be completed and accepted by the client. The client undertakes to act reasonably and in good faith in requesting such corrections or alterations. VBA will take all reasonable care to ensure that site content is typographically correct. However the final responsibility for checking the content of the site lies with the client. On completion of the site or section it shall be posted live on the web server unless otherwise agreed between us or provided for in the contract between us.

1.7 Upon payment of all outstanding sums in relation to VBA design of a web application, design for print material or Sales & Marketing document VBA will be deemed to have assigned to the client copyright and related rights in relation to all material specifically created for the client in relation to such web application, design for print or document. To avoid any doubt, this will include rights in any bespoke software specifically written for the client for the web application or design for print graphics but shall not include any third party materials nor any rights in general designs, layouts, structures, methodologies, techniques, coding, HTML, database structures or configurations or other materials which were in existence prior to commencement of the site or were not created for exclusive use by the client.

1.8 Whilst VBA use "best endeavours" to ensure that applications can be viewed across a spectrum of available World Wide Web platforms or viewers VBA currently design sites to a specification to be viewed by Microsoft Explorer Version 4 and upwards running within a Microsoft Windows platform on a Pentium powered Personal Computer and do not warrant the site will be fully functional within any other combination of viewer or operating system VBA carry out their design in accordance with a combination of criteria including W3C Standards, Browser manufacturers published data, Good/Common Practice and it is understood our design is liable to alteration to reflect changes in such standards and practice.

1.9 Handover: On completion of the project the client will accept handover of the application or design graphic or document meaning that VBA have completed our contractual obligations and the client accepts responsibility for the management and maintenance of the application and or graphic and sales & marketing plan (unless a maintenance arrangement has previously been agreed. From the date of handover the client will have a time period of

up to 2 weeks (10 working days) to report any minor defects. VBA will undertake to correct these minor defects within a reasonable timescale. Prior to a application being launched "live" or any materials being utilised by the Client payment in full is required.

2. Services

In relation to all the services to be provided by VBA as detailed in the Proposal including the services detailed above (the "Services"), the following conditions shall apply: -

2.1 All prices detailed in the Proposal are exclusive of value added taxes and any other relevant government imposed duties. The client shall pay these in addition at the prevailing rate at the relevant time.

2.2 Prices detailed in the Proposal remain valid for a period of 60 days only from the date of issue of the Proposal. However, VBA shall be entitled following the client's acceptance to vary our prices to reflect any change in third party dependent costs which are imposed on VBA, by giving written notice to the client, such variations to take effect from the date such revised costs are imposed on VBA. In relation to any periodic costs detailed in the Proposal or Process Plan (such as hosting fees), we shall be entitled to vary these at any time by giving 30 days' notice to the client.

2.3 The payment terms are as detailed in the Proposal and/or "Plan to Completion". However, where prices set out in the Proposal include items to be purchased by VBA on the client's behalf (such as third party hardware or software), it is understood such sums shall be payable by you immediately on your acceptance of the Proposal. You will not be entitled to set off any claims against us or make any other deductions in relation to any payment due and all sums shall be payable within 7 days of the date of the invoice requesting payment.

2.4 If payment is not made by the due date specified in Clause 2.3, we shall be entitled (without affecting any other rights we may have) to charge interest on the outstanding amount (notwithstanding any court decree obtained) at the rate of 5% above the base rate from time to time charged by Royal Bank of Scotland Plc from the due date until the payment in full.

2.5 Where training/coaching is to be provided, payment in full for such training shall be made by you at least 7 working days prior to the commencement of such training/coaching failing which we shall be entitled to withhold such training/coaching until payment is made.

2.6 At all times the client must specify a communication address and a recognised format by which VBA may send messages in relation to the provision of the services (particularly in an emergency). Should the client fail to do so then, to avoid any doubt, VBA shall not be responsible for any loss arising as a result.

2.7 If at any time we require access to the client's premises to provide the Services, the client will provide this at all reasonable times and be responsible for the health and safety of VBA personnel whilst on the client's premises.

2.8 Where the Proposal confirms that any of the Services will run for periods of one year at a time then, subject to termination by VBA or by the client by giving 30 days notice to the other to expire at the end of such period of one year, then to avoid doubt such services shall be deemed to be renewed for a further period of one year or such other period as shall be mutually agreed between us. If at termination of the services as specified in the contract between us or any renewal period you wish to transfer your application or design or sales & marketing planning to any third party, we will provide reasonable co-operation to you in doing so but reserve the right to make a reasonable charges for the work or expenses (if any) reasonably incurred in such a transfer.

3. Confidentiality

Both VBA and the client undertake to maintain the confidentiality of all information provide by one to the other (including in your case information relating to your customers). In particular:

3.1 VBA undertake to use your confidential information solely for the purposes of providing the services to the client and 3.2 the client will not disclose any technical information obtained from VBA to any other persons without our prior written consent except in each case insofar as such information enters the public domain (other than through unauthorised disclosure under this Agreement).

4. Liability

4.1 You will indemnify us against all and any losses incurred by us whether arising directly or indirectly from any act, omission, lack of compliance, breach or failure on your part in relation to any materials supplied by you in terms of Clause 1.1 or otherwise arising out of our providing the Services to your specific requirements or instructions.

Whilst we undertake to provide the Services with reasonable skill and care no other warranty express or implied is given and all implied warranties of any nature on our part are expressly excluded.

4.2 We also expressly exclude liability of any kind in relation to the following:

- (i) The transmission or acceptance of information of any nature on your behalf and your acts and omissions in relation to the use or misuse of the Services;
- (ii) The acts or omissions of other providers of hardware, software or telecommunications services for faults in or failures of their equipment programmes processes or apparatus
- (iii) Liability for consequential loss of any nature howsoever arising including but not limited to loss of profit and opportunity;
- (iv) Any delay, malfunction, non performance or other degradation of any of the Services caused by or resulting from any alteration and/or modifications and/or amendments made by you or due to changes of specifications requested or implemented by you.

4.3 in any event, our liability for the Services shall be limited to the total price paid for the services in aggregate in relation to all claims under this Agreement. To avoid any doubt, as required by law, nothing in these

Conditions attempts to restrict or exclude our liability for death or personal injury arising directly out of our negligence.

5. Termination

5.1 Either party will be entitled to terminate the contract between us by written notice effective immediately if the other is in material breach of contract. To avoid any doubt, a breach arising under this contract shall be deemed to be a material breach if not remedied within 14 days of written notice requiring the breach be remedied issued by the party not in breach to the other.

5.2 The client will be deemed to be in material breach and VBA will be entitled but not bound to terminate the contract if at any time the client fails to pay any sums due within 14 days of the due date (as specified in Clause 2.3) or if the client are subject to insolvency proceedings of any nature.

5.3 Termination will be without prejudice to any accrued rights or liabilities of either party or any other rights or obligations, which due to their nature are intended to survive termination. Where termination occurs and work has been carried out by VBA and not paid for because the due date has not been reached, we reserve the right to charge the client for such work and the client shall pay such charges within 14 days of the date of invoice.

5.4 If appropriate, VBA reserve the right at our sole discretion to elect to suspend any or all of the services in the circumstances set out in conditions 5a.1 and 5.2 but this will not affect our right to terminate at any time after such suspension.

(e) Within 7 days of the termination of the contract between VBA and the client for any reason the client will return or destroy (at VBA's discretion) all copies of VBA software and any and all materials provided by VBA to the client in connection with the provision of the Services and shall purge/expunge all magnetic media forms of such materials and (on request) give VBA a certificate certifying that you have complied with these terms. This does not affect your rights under condition 1.7 if applicable

6. Terms of Payment

Unless otherwise defined in the proposal VBA standard terms of payment will apply as follows:

- 1) Payment in full within in timescale specified on the Invoice
- 2) Payments for Design work shall be staged as follows:

50% on commencement of project/acceptance of the proposal

Final 50% Balance upon completion of the design work prior to upload or hand over

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