

Metalfrog

Terms and Conditions of Business - Internet and Design-based Services

These terms and conditions are legally binding and it is assumed that, prior to signing a contract with us, you agree to comply with them in full (unless otherwise agreed). These terms and conditions are additional to Metalfrog (hereto referred to as "us") standard terms and conditions, and override standard terms and conditions if held to be contradictory.

1.0 Domain name registration

1.1 Authorities/Administrators

ICANN – Governing body for domain names ending .com, .org, .net
Network Solutions Inc – Registry Administrator of domains governed by **ICANN**.

Nominet – Governing body for domain Names ending in .co.uk, .org.uk, .ltd.uk and .pic.uk

Nominet UK – Registry administrator of domains governed by Nominet.

2.0 Restriction Protocols

2.1 This must constitute an individuals name, either being their legal name, a name by which a person is commonly named including without limitation a pseudonym used by an author or a painter, or a stage name used by a performance artist.

3.0 Service Provision

3.1 Domain name registration is submitted by us to the registry administrator or an authorised registry administrator reseller who puts the domain name in to effect.

3.2 Domain names are typically registered for 12 or 24 months.

3.3 For domain renewals, renewal will be advised to you via email, and if notice of cancellation, which must be in writing or email and received at Our registered office is not received prior to the renewal date, the domain name will automatically be renewed to ensure that the domain is not lost to a third party.

3.4 We are registered under the Data Protection Act 1998.

4.0 Fees

All invoices for registration and/or renewal are payable in full before the registration renewal date. Pre-paid fees are non-refundable. The fee amount will be advised prior to registration renewal, providing you with a cancellation option.

4.0 Fees

4.1 Client Responsibilities

It is the clients' duty and responsibility to ensure that the domain name and the purpose for which it is used, do not infringe upon the legal rights of a third party, and that it is not used for any unlawful purpose.

4.2 To keep us informed of the domain name holders name, mailing address, e-mail address, telephone and fax number i.e. the person authorised to confirm or cancel renewal.

4.3 To keep us informed of the billing name, mailing address, e-mail address, telephone and fax number.

4.4 Information Disclosure – The client authorises us to provide any information that might be required to fulfil domain name registration or renewal to any of the parties mentioned above or the duly authorised agents.

4.5 Domain name dispute policy – The industry standard Uniform Domain Name Dispute Resolution Policy applies

5.0 Hosting

5.1 Website hosting constitutes the business of hosting, serving and maintaining files of one or more websites. The storing of adult content or content that is illegal under English Law is not permitted.

5.2 Hosting is provided using web servers operated by companies who provide specialist services in this regard. The choice of provider is at the sole discretion of us, having regard to client needs and requirements.

5.3 For the purposes of any maintenance or repair, hosting services may have to be suspended for short periods of time and you will be advised of any downtime requirements.

5.4 Both bandwidth and disc space usage requirements are determined at initial contract supply and if agreed usage limits are exceeded we reserve the right to charge incrementally for excesses.

5.5 Hosting services are provided for a term of 12 months on a pre-paid basis and are non-refundable. Renewal upon expiry of the term is Automatic unless a cancellation notice has been Received in writing, or by e-mail to our offices.

6.0 E-mail Addresses

6.1 E-mail addresses are provided as part of, or in addition to, hosting service packages and charged accordingly. Email addresses are only registered with authorised service providers. When provided as part of a hosting service, hosting terms and conditions apply.

6.2 For E-mail addresses provided separate to hosting package services, they are provided for a term of twelve months on a pre-paid basis and are non-refundable. Renewal upon expiry of the term is automatic unless a cancellation notice has been received in writing, or by e-mail to our offices.

7.0 Limitation of Warranty and Liability

7.1 Customer agrees that it shall defend indemnify save and hold us harmless from any and all demands, liabilities, losses, costs and claims, including reasonable legal fees asserted against us, our agents, our customers, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by a customer, its agents, employees or assigns. Customer agrees to defend, indemnify and hold harmless, us against liabilities arising out of any injury to person or property caused by any product sold or distributed in connection with server space provided. Any material supplied by customer infringing or allegedly infringing on the proprietary rights of a third party.

7.2 Copyright infringement and any defective product sold to the customer from the server space provided

7.3 We are not liable for any failure of services provided by ICANN, Network Solutions Inc., Nominet, Nominet UK, any authorised registry administrator resellers, or hosting service providers and their web servers, or providers of email services. In the event of any corruption or hardware failure or loss of data we will attempt to restore services but will not be responsible for any damages that the clients business might suffer. We make no warranties of any kind express or implied for services we provide. Service level options are available to clients to limit the effect on their business in the event of service failures occurring.

7.4 We reserve the right to cancel any domain registration or hosting service or e-mail service, for any client invoices that remain unpaid outside standard or specific terms and conditions payment terms.

7.5 Us is not liable for any loss of business whilst maintenance and repair work is undertaken.

7.6 Industry standard Uniform Domain Name Dispute Resolution Policy applies.

8.0 Headings and Terminology

8.1 The headings of the terms and conditions herein are for convenience or reference only and do not form part of this agreement nor affect its interpretation.

8.2 Common industry definitions apply to any, and all, technical phrases and terminology.

Metalfrog Studios

Search Engine Optimisation Terms of Business

1. "Company" agrees to provide Client with Search Engine Optimisation and Reporting Services (hereinafter referred to as "SEO") as described in this agreement. "Company" is authorized to use the specific keywords and/or phrases set forth below for development, improving the ranking of, and/or positioning the contents of the Client's URL(s), "" in the search engines and/or directories that are most frequently used by the general public which are defined below.

2. Client agrees to pay "Company" a fee as stated in "Proposal". Initial Audit Report Fee (equivalent to one month's payment plus VAT) must be received prior to the start of any services provided. Client agrees to commencement of standing order/direct debit for SEO Services, to "Company" bank account.

Please note that failure to make payment will result in instant termination of services, without warning or prejudice. "Company" reserves the right to charge interest on outstanding payment at 6% above standard Bank of England base interest rate, for every day over the due date.

Services:

SEO Services are intended to provide the client with preferential positioning in selected search engines and report results on an ongoing and timely basis. SEO Services include:

- Research keywords and phrases to select appropriate, relevant search terms. Number of keywords is listed in the Proposal. Additional keyword purchases will require Addendum or separate contract.
- Edit various html tags and page text as necessary prior to submission to selected search engines and directories.
- Hand-submit your pages to the engines and directories stated in this agreement.
- Create positioning reports for main site and any associated pages showing rankings in the major search engines and under which keywords.

4. For the purposes of providing these services, client agrees to provide:

- Give "Company" FTP access to the main site for uploading new pages, and making changes for the purpose of optimization OR approval to go through 3rd Party.
- Client authorizes "Company" use of all client logos, trademarks, Web site images, etc., for use in creating informational pages and any other uses as deemed necessary by "Company" for search engine positioning and optimization.
- If Client's site is light in textual content, client will provide additional relevant text content in electronic format for the purpose of creating additional web pages. Client agrees to provide content, for example 200 to 500-word "articles" about each of their keyword phrases, unless Client manages his/her own site.

5. Selected search engines* include:

- AOL
- Alta Vista
- About
- Google
- All The Web
- Excite
- Hot Bot
- Looksmart
- MSN
- Lycos
- Yahoo [web pages only]
- Netscape

* Top Major SE and SE names may change without notice

6. Client acknowledges the following with respect to services:

- "Company" has no control over the policies of search engines with respect to the type of sites and/or content that they accept now or in the future. Client site may be excluded from any directory at any time at the sole discretion of the search engine or directory. "Company" will resubmit those pages that have been dropped from the index.)
- Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms and other competitive factors, "Company" does not guarantee #1 positions or consistent top 10 positions for any particular keyword, phrase or search term. However, if "Company" fails to achieve 3 top 30 positions in the major search engines, "Company" will start over "SEO" services with no cost to Client.
- Some search engines and directories may take as long as 2 to 4 months, and in some cases longer, after submission to list your site.
- Occasionally, search engines will stop accepting submissions for an indefinite period of time.
- Occasionally, search engines will drop listings for no apparent or predictable reason. Often listing will "reappear" without any additional submissions. Should the listing not reappear, "Company" will re-submit the site based on the current policies of the search engine in question.
- Some search directories offer expedited listing services for a fee. "Company" encourages clients to take advantage of these expedited services. Client is responsible for expedited service fees, example Yahoo, unless otherwise noted in the package Client purchases.

7. The "Company" is not responsible for changes made to the Web site by other parties that adversely affect the search engine rankings of the Client's Web site.
8. Additional Services not listed herein or in Proposal will be provided for £65.00 per hour. For example, purchasing keywords beyond the scope provided in the SEO proposal.
9. Client guarantees any elements of text, graphics, photos, designs, trademarks, or other artwork provided to "Company" for inclusion on the website above are owned by Client, or that Client has received permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and defend "Company" and its subcontractors from any liability or suit arising from the use of such elements.
10. "Company" is not responsible for Client's overwriting SEO work to Client's site. IE / Client webmaster making changes and uploading over work already provided. Client will be charged an additional fee for re-constructing Metas, etc based on the hourly rate of £65/hour.
11. Client is required to give "Company" 90 day's written notice, prior to termination of the contract. This overrides "Company" terms and conditions of business.
12. Client agrees that the services provided by "Company" are on a strict 12 month rolling basis and can be paid annually or monthly. The Client can decide which is best and the annual payment will attract significant discounts – to be discussed on an individual basis.

These notices are in conjunction with our standard terms and conditions of business, and it is assumed that upon contract signature the Client has read and agrees with all items laid out in this document.

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Metalfrog

Standard Terms and Conditions of Business

Metalfrog (herein after referred to as "us") terms and conditions cover all projects, services and jobs undertaken for clients, agreed in writing or by email communication. These terms and conditions can only be added to or amended in a specific Metalfrog proposal or scope of supply.

1.0 Intellectual Property

Subject to any pre-existing third party rights, intellectual property rights in respect of all brand development, visual design and, where appropriate, programming will rest with the client upon payment of all outstanding invoices. Where developed products are concerned such as an automated publishing tool, we will retain intellectual property.

2.0 Validity

All proposals issued by us are valid for a period of twenty eight days only from the date of issue. We reserve the right to cancel or revise any outstanding proposal, after expiry of this period, if official written acceptance by the client has not been received.

3.0 Acceptance

No proposal issued by us will be considered binding upon us until it is officially accepted in writing by a Director, Partner or authorised representative of the client and so acknowledged by the proposing officer of us. The conditions of supply as set out by us may not be modified or varied unless specifically agreed in writing under the signature of a Partner. We do not recognise any terms and conditions of purchase of the client that are contrary to this agreement. Execution of, compliance with or implementation of orders, does not imply Our acceptance of the clients' conditions. We also reserve the right to cancel or to modify the terms of any proposal if it is unable to obtain satisfactory credit references for the client.

4.0 Variation

Us reserves the right to submit variation invoicing if the scope of work changes from that set out in the proposal of scope of supply.

5.0 Invoicing

Unless otherwise stated, in a project proposal or scope of supply, we will invoice the client 50% of the estimated or fixed project value on project acceptance and this sum must be paid immediately. The balance is then invoiced on project completion. Projects below certain values as determined from time to time by us and at its sole discretion may waive the above commencement invoice requirement, and invoice the project in full on project completion. Invoices will be issued in UK Sterling. However, with the agreement of the client, We reserve the right to issue invoices in other currency denominations. Unless otherwise advised by the client we will submit invoices to the client address indicated on client purchase orders, letter-head or other correspondence.

6.0 Performance of Services

We will perform its services in a professional and workmanlike manner. We will use reasonable efforts to complete the services in accordance with the schedule set forth in the Scope of Supply, subject to the fulfilment by the client of its responsibilities as set forth herein in the Scope of Supply. The client acknowledges that we may use sub-contractors in connection with its performance of services.

7.0 Payment Terms

Fee invoices will be rendered as set out in clause 5.0. We reserve the right to hold any deliverables under the Scope of Supply in the event that any payment is not made when it falls due. Project commencement invoices are payable immediately upon receipt. All other invoices are payable 14 days from the date of invoice, except where terms have been agreed separately in writing by us. Invoices submitted and not paid within thirty days of the invoice date will incur interest on a daily basis in accordance with Late Payment of Commercial Debts Interest Act 1998. The interest charge may be waived at our discretion.

8.0 Delays

The client agrees to compensate us for any extended work caused by its delay, act, omission, or failure to meet its requirements, at our standard invoicing rates. Us reserve the right to invoice for completed elements of the project, if the project extends past the timescale shown on a project plan and if those delays have been caused by circumstances outside the control of Us. The same rights allow for up to 95% of the project value to be invoiced upon, or after the occurrence of, this event and for which the client is then legally bound to pay said invoice notwithstanding that the project has not been fully completed and delivered.

9.0 Limitation of Warranty and Liability

- a. The except is provided in clause 6.0 of this agreement we make no warranties, express or implied, including without limitation any warranties as to merchantability or fitness for a particular purpose.
- b. Neither party will be liable for indirect, punitive, exemplary, special or consequential damages (including loss of profits, loss of data, loss of business or other economic damage) of any kind, even if advised of the possibility of such damages. Regardless of the form of any claim, Our liability for any claim arising under the services, including costs and expenses, shall not exceed the total fee paid by the client for the service under the scope of supply.
- c. No liability for any damage or loss of goods or any part thereof in transit or upon delivery unless advised by the client within four working days of receipt, and confirmed in writing or by e-mail within the same period. If we accept liability for such loss or damage its liability shall be limited to replacement or repair of such goods.

10.0 Client Responsibilities

The client agrees to provide us with such assistance as we may reasonably request in connection with the services, including timely access to the clients' facilities and to the clients applications (including source and object code) and to persons with sufficient technical and business knowledge regarding the services and the clients business objectives relating to the services. The client will also provide us with accurate and complete information necessary to the completion of the services

11.0 General

- a. Neither party may assign its rights and/or obligations under this agreement without the other party's private consent.
- b. These terms and conditions are in addition to any Scope of Supply, schedules attached to any scope of supply, daily rate documents, maintenance agreements, internet based services terms and conditions or any other agreement originated by us
- c. Neither party shall be liable to the other for any failure or delay caused by events beyond its reasonable control including, without limitation, sabotage, failure or delays in transportation or communication, failures or substitution of equipment, labour disputes, accidents, shortages of labour, fuel, raw material or equipment, acts of God, war, riot, civil commotion, explosion, fire, government action or epidemic
- d. Terms and Conditions may from time to time be amended by us, giving its clients thirty days notice in writing or by e-mail communication. If not accepted by the client giving written or e-mail notification which must be received at our offices existing services and projects will continue until the next renewal date for services, or the completion date for exiting projects and existing terms and conditions will remain in force for the remaining period of service or project.
- e. We are an independent contractor with respect to this agreement and the client will have no responsibility to provide fringe benefits or to withhold taxes normally withheld from an employees pay on behalf of us and our associate's employees.
- f. Title and goods and services shall remain with Us until all sums owing by the client are settled. The client grants irrevocable rights and licence to Our servants and agents to enter upon all or any of its premises, with or without vehicles during normal business hours to remove goods where title remains vested in or pursuant to this clause. The client will also meet any expenses in the return or recovery of goods and the costs of any damages thereto.
- g. The laws of England and Wales govern this agreement.

12.0 Headings

The headings of the terms and conditions herein are for reference and convenience only and do not form part of this agreement nor affect its interpretation.