



# **TERMS AND CONDITIONS**

## **WEB APPLICATION DEVELOPMENT & DESIGN**

THE FOLLOWING TERMS AND CONDITIONS APPLY TO WEBSITE DEVELOPMENT AND DESIGN SERVICES, (THE **SERVICES**) PROVIDED BY INTERCX TECHNOLOGIES (**INTERCX**) TO THE CLIENT, IN CONJUNCTION WITH ANY RELEVANT QUOTATION PROVIDED TO THE CLIENT BY INTERCX (**TERMS**), UNLESS OTHERWISE AGREED IN WRITING. ACCEPTANCE OF A QUOTE, PURCHASE AND/OR USE OF THE SERVICES SHALL BE CONSIDERED ACCEPTANCE OF THE TERMS.

## 1. Charges

Charges for the Services are defined in the project quotation that The Client receives from Intercx via email. Quotations are valid for a period of 14 days. Intercx reserves the right to alter a quotation or decline to provide the relevant Services after expiry of the 14 days.

Unless agreed otherwise with The Client, The Services require an advance payment of a minimum of fifty (50) percent of the project quotation total before the work commences. A second payment of fifty (50) percent is required after The Client review and design sign off stage, with the remaining percentage of the project quotation total due upon completion of the work, prior to upload to the server or release of materials.

The Client agrees to reimburse Intercx for any additional expenses necessary for the completion of the work. Expenses may include (but are not limited to) purchase of domain names, special fonts, and stock photography.

All Charges are exclusive of VAT.

## 2. Invoicing and payment

Payments are made on a staged basis with each stage paid in advance of any work. All invoices must be paid in full within 14 days of the invoice date, except where agreed at Intercx' own discretion. All payments are made on a staged basis and no further work will commence until each staged-payment has been made.

Payment for services is due by bank transfer. Bank details will be made available on invoices.

Intercx shall submit invoices in line with the timescales above. Invoices are normally sent via email, but hard copy invoices are available on request. Payment is due on receipt of the invoice by The Client.

If The Client fails to make any payment due to Intercx by the due date for payment, then, without limiting Intercx's remedies under or in connection with these terms and conditions, Intercx reserves the right to remove, disable and/or disconnect its work for the Client from the word wide network.

Intercx reserves the right to decline further work on a project if there are invoices outstanding with the Client.

Accounts unpaid thirty (30) days after the date of invoice will be considered in default. If The Client in default maintains any information or files on Intercx's web space, Intercx will, at its discretion, remove all such material from its web space. Intercx is not responsible for any loss of data incurred due to the removal of the service. Removal of such material does not relieve The Client of the obligation to pay any outstanding charges assessed to The Client's account. The Client with accounts in default agree to pay Intercx reasonable expenses, including legal fees and costs for collection by third-party agencies, incurred by Intercx in enforcing these Terms.

Prices are subject to change without notice.

All quoted prices here are exclusive of VAT.

By accepting a quotation or making a payment of invoice to use the services supplied, the Client acknowledges having read, understand, and accept the Terms and Conditions of this Agreement and agrees to be legally binding by these Terms and Conditions.

### 3. Client Review

Intercx will provide The Client with an opportunity to review the appearance and content of the website during the development and/or design phase and once the overall website development is completed. At the completion of the project, such materials will be deemed to be accepted and approved unless The Client notifies Intercx otherwise within ten (10) days of the date the materials are made available to The Client.

### 4. Turnaround Time and Content Control

Intercx will install and publicly post or supply The Client's website by the date specified in the project proposal, or at the date agreed with Client upon Intercx receiving initial payment, unless a delay is specifically requested by The Client and agreed by Intercx.

In return, The Client agrees to provide Intercx promptly with all necessary co-operation, information, materials and data, access to staff and timely decision-making which may be reasonably required by Intercx for the performance of the Services. This shall include The Client delegating a single individual as a primary contact to aid Intercx with progressing the commission in a satisfactory and expedient manner.

During the project, Intercx will require The Client to provide website content; text, images, movies and sound files, along with any relevant background information. If The Client is unable to provide text content, Intercx may offer The Client a paid copywriting service provided by Intercx' partner as written in the quotation. Extra charges will be applied.

### 5. Failure to provide required website content

Intercx is a small business, and to remain efficient we must ensure that work we have programmed is carried out at the scheduled time. On occasions we may have to reject offers for other work and enquiries to ensure that your work is completed at the time arranged.

Therefore, we ask that The Client provides all the required information in advance. On any occasion where progress cannot be made with The Client's website because we have not been given the required information in the agreed time frame, and we are delayed as result, we reserve the right to impose a surcharge of up to 25% of the Charges. If the Services involve Search Engine Optimisation, we need the text content for The Client's site in advance so that the SEO can be planned and completed efficiently.

If The Client agrees to provide us with the required information and subsequently fail to do within one week of project commencement, we reserve the right to close the project and the balance remaining becomes payable immediately. Simply put, please do not give us the go ahead to start until you are ready to do so.

NOTE: Text content must be delivered as a Microsoft Word (.docx file), email (or similar) document with the page names in the supplied document representing the content of the relevant pages on your website. These pages must have the same titles as the agreed website pages. Contact us if you need clarification on this.

Using our content management system, The Client is able to keep your content up to date itself.

### 6. Web Browsers

Intercx makes every effort to ensure websites are designed to be viewed by the majority of visitors. Websites are designed to work with the most popular current browsers (e.g. Firefox, Google Chrome, Microsoft Edge etc.). The Client agrees that Intercx cannot guarantee correct functionality with all browser software across different operating systems.

Intercx cannot accept responsibility for web pages which do not display acceptably in new versions of browsers released after the website has been designed and handed over to The Client. As such, Intercx reserves the right to quote for any work involved in changing the website design or website code for it to work with updated browser software.

### 7. Termination

Termination of services by The Client must be requested in a written notice and will be effective on receipt of such notice. Email or telephone requests for termination of services will not be honoured until and unless

confirmed in writing. The Client will be invoiced for work completed (including any expenses incurred, as outlined in clause 1) to the date of first notice of cancellation for payment in full within fourteen (14) days.

## 8. Indemnity

The Client agrees to use all Intercx services and facilities at their own risk and agrees to defend, indemnify, save and hold the Intercx harmless from any and all demands, liabilities, costs, losses and claims, including but not limited to legal fees against Intercx or its associates that may arise directly or indirectly from any service provided or agreed to be provided or any product or service sold by the Client or its third parties.

The Client agrees that this indemnification extends to all aspects of the project, including but not limited to website content and choice of domain name.

The Client also agrees to indemnify, hold harmless and defend, Intercx against any liabilities arising out of injury to property or person caused by any product or service sold by the Client or any service provided or agreed to be provided or by third parties, including but not limited to infringement of proprietary rights, misinformation, infringement of copyright, delivery of defective services or products that are harmful to any company, person, business, or organisation.

## 9. Intellectual property

**Background IP** means any IP Rights, other than Foreground IP, that is used in connection with these Terms.

**Foreground IP** means any IP Rights that arise or are obtained or developed by, or by a contractor on behalf of, either party in respect of the services and deliverables under or in connection with these Terms.

**IP Rights** means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

All Background IP, including but not limited to any IP Rights in data, files and graphic logos provided to Intercx by The Client, is and shall remain the exclusive property of the party owning it (or, where applicable, the third party from whom its right to use the Background IP has derived).

The Client hereby grants to Intercx a non-exclusive licence to publish and use such material, which may be sub-licensed to any contractor acting on behalf of Intercx. The Client must obtain permission and rights to use any information or files that are copyrighted by a third party. The Client is further responsible for granting Intercx permission and rights for use of the same. A contract for website design and/or placement shall be regarded as a guarantee by The Client to Intercx that all such permissions and authorities have been obtained. Evidence of permissions and authorities may be requested. The Client shall indemnify and hold harmless Intercx against all damages, losses and expenses arising as a result of any and all actions or claims that any materials provided to Intercx by or on behalf of The Client infringe the IP Rights of a third party.

All Foreground IP shall vest in and be owned absolutely by the party creating or developing it. Intercx hereby grants The Client a non-exclusive licence of such Foreground IP for the purpose of operating the website.

## 10. Confidentiality

Each party (the **Receiving Party**) shall use its reasonable endeavours to keep confidential all information and documentation disclosed by the other party (the **Disclosing Party**), before or after the date of these Terms, to the Receiving Party or of which the Receiving Party becomes aware which in each case relates to any software, operations, products, processes, dealings, trade secrets or the business of the Disclosing Party (including without

limitation all associated software, specifications, designs and graphics) or which is identified by the Disclosing Party as confidential (the **Confidential Information**) and will not use any Confidential Information for any purpose other than the performance of its obligations under these Terms. The Receiving Party shall not disclose Confidential Information to any third party without the prior written consent of the Disclosing Party. This clause shall survive the termination of these Terms for whatever cause.

During the term of these Terms the Receiving Party may disclose the Confidential Information to its employees and sub-contractors (any such person being referred to as the **Recipient**) to the extent that it is reasonably necessary for the purposes of these Terms. The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under these Terms as if the Recipient was a party to these Terms.

The obligations in this clause 10 shall not apply to any Confidential Information which is:

- at the date of these Terms already in, or at any time after the date of these Terms comes into, the public domain other than through breach of these Terms by the Receiving Party or any Recipient;
- furnished to the Receiving Party or any Recipient without restriction by a third party having a bona fide right to do so; or
- required to be disclosed by the Receiving Party by law or regulatory requirements, provided that the Receiving Party shall give the Disclosing Party as much notice as reasonably practicable of the requirement for such disclosure.

All tangible forms of Confidential Information, including, without limitation, all summaries, copies, excerpts of any Confidential Information whether prepared by the Disclosing Party or not, shall be the sole property of the Disclosing Party, and shall be immediately delivered by the Receiving Party to the Disclosing Party upon the Disclosing Party's request or the termination of these Terms (whichever is earlier). The Receiving Party shall not copy, reproduce, publish or distribute in whole or in part any Confidential Information without the prior written consent of the Disclosing Party.

## 11. Data protection

For the purposes of this clause, Data Protection Law means the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018, any other data protection and/or privacy laws applicable to Intercx, and any applicable laws replacing, amending, extending, re-enacting or consolidating the above from time to time.

Both parties will comply with all applicable requirements of Data Protection Law. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Law.

The Client will comply with Data Protection Law in connection with the collection, storage and processing of personal data (which shall include you providing all the required fair processing information to, and obtaining all necessary consent from, data subjects), and the exercise and performance of your respective rights and obligations under these terms and conditions, including all instructions given by The Client to Intercx and maintaining all relevant regulatory registrations and notifications as required under Data Protection Law.

The parties acknowledge that if Intercx processes any personal data on The Client's behalf when performing its obligations under this agreement, The Client is the controller and Intercx is the processor for the purposes of Data Protection Law.

The scope, nature and purpose of processing by Intercx, the duration of the processing and the types of personal data and categories of data subject are set out in our Privacy Notice and the project quotation.

In relation to the processing of personal data under these terms and conditions, Intercx shall:

- process personal data on The Client's behalf only on and in accordance with The Client's documented instructions as set out in this clause 11 (as updated from time to time by agreement between the parties), unless required to do so by applicable law; in such a case, we shall inform you of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest;

- ensure that persons authorised to process personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- implement and maintain appropriate technical and organisational measures in relation to the processing of personal data; you hereby acknowledge that you are satisfied that our processing operations and technical and organisational measures are suitable for the purposes for which you propose to use our services and engage us to process the personal data;
- promptly refer all data subject requests we receive to you and, taking into account the nature of the processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR;
- assist you in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR, taking into account the nature of processing and the information available to us and only in the event that you cannot reasonably be expected to comply with the requirements of Articles 32 to 36 without our information and/or assistance (e.g. you do not possess or otherwise have access to the information requested). We may charge our reasonable costs on a time and materials basis in providing you with such assistance;
- retain personal data in accordance with the retention periods set out in our Privacy Notice;
- make available to you all information necessary to demonstrate compliance with the obligations laid down in Article 28(3) and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you provided: (i) you give us at least 7 days prior notice of an audit or inspection being required; (ii) you give us a reasonable period of time to comply with any information request; (iii) ensuring that all information obtained or generated by you or your auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential; (iv) ensuring that such audit or inspection is undertaken during normal business hours, with minimal disruption to our business; (v) no more than one audit and one information request is permitted per calendar year; and (vi) paying our reasonable costs for assisting with the provision of information and allowing for and contributing to inspections and audits;
- take reasonable steps to ensure the reliability of anyone who we allow to have access to personal data, ensuring that in each case access is limited to those individuals who need to know or access the relevant personal data, as necessary for the purposes of the Terms; and
- notify The Client without delay (and if possible, within 24 hours) upon us or any sub-processor becoming aware of a personal data breach affecting personal data processed on The Client's behalf, providing The Client with sufficient information to allow you to meet any obligations to report or inform data subjects of the personal data breach.

The Client hereby gives Intercx consent to engage sub-processors for processing of personal data on your behalf. We shall inform The Client before transferring any personal data processed on your behalf to a new sub-processor. Following receipt of such information you shall notify us if you object to the new sub-processor. If you do not object to the sub-processor within seven calendar days of receiving the information, you shall be deemed to have accepted the sub-processor. If you have raised a reasonable objection to the new sub-processor, and the parties have failed to agree on a solution within reasonable time, The Client shall have the right to terminate these Terms with a notice period determined by The Client, without prejudice to any other remedies available under law or contract. During the notice period, we shall not transfer any personal data processed on The Client's behalf to the sub-processor.

Intercx shall enter into appropriate written agreements with all of its sub-processors on terms substantially similar to these Terms. We shall remain primarily liable to The Client for the performance or non-performance of the sub-processors' obligations. Upon your request, we are obliged to provide information regarding any sub-processor, including name, address and the processing carried out by the sub-processor.

We will not transfer personal data processed on your behalf to a country outside the United Kingdom which is not recognised by the European Commission to have an adequate level of protection in accordance with Data Protection Law unless the transfer is affected by such legally enforceable mechanism(s) for transfers of personal data as may be permitted under Data Protection Laws from time to time.

## 12. Standard Media Delivery

Unless otherwise specified in the project quotation, this Agreement assumes that any text will be provided by The Client in electronic format (Word or Google Docs delivered via USB drive, e-mail, or FTP) and that all

photographs and other graphics will be provided (Google Drive, WeTransfer, and/or other file transfer services) in high quality print suitable for scanning or electronically in .gif, .jpeg, .png, .svg, or .tiff format. Although every reasonable attempt shall be made by Intercx to return to The Client any images or printed material provided for use in creation of The Client's website, such return cannot be guaranteed.

### 13. Design Credit and Marketing

A link to Intercx will appear in either small type or by a small graphic at the bottom of The Client's website. If a graphic is used, it will be designed to fit in with the overall site design. If a client requests that the design credit be removed, a nominal fee of 10% of the total development charges will be applied. When total development charges are less than €7000, a fixed fee of €600 will be applied.

The Client agrees that the website developed for The Client may be presented in Intercx's portfolio, and hereby grants Intercx a worldwide, perpetual, non-exclusive licence to use its name, logo and branding for advertising, marketing, and promotional activities.

### 14. Third Party Servers

Intercx designs and tests websites to work on its own servers and cannot guarantee correct functionality if The Client wishes to use a third-party server. In the event that The Client is using a third-party (web) server, it is the responsibility of The Client and any third-party host to ensure that the (web) server configuration is compatible with the website. Upon delivery of the website, Intercx may supply the required (web) server configuration without additional charges. Intercx will assist The Client to configure the third party (web) server if this is required. However, this may be subject to additional charges.

If The Client's website is to be installed on a third-party server, Intercx must be granted temporary read/write access to The Client's storage directories which must be accessible via FTP. Depending on the specific nature of the project, other resources might also need to be configured on the server.

### 15. Post-Placement Alterations

In the event that The Client wishes to make alterations to the website once installed, The Client agrees to give Intercx the opportunity to quote to provide such alterations. There is no obligation on The Client to accept the quote provided by Intercx.

Intercx cannot accept responsibility for any alterations caused by The Client or a third party occurring to the website once installed. Such alterations include, but are not limited to additions, modifications, or deletions.

### 16. Domain Names

Intercx may purchase domain names on behalf of The Client. Payment in relation to, and renewal of, those domain names is the responsibility of The Client. The loss, cancellation or otherwise of the domain brought about by non or late payment is not the responsibility of Intercx. The Client should keep a record of the due dates for payment to ensure that payment is received in good time.

### 17. Third Party Products

Any third-party software which Intercx agrees to provide shall be supplied in accordance with the relevant licensor's standard terms. The one-off licence fee for such third-party software is included in the Charges payable pursuant to clause 1.

### 18. General

These Terms constitute the entire agreement between the parties and supersedes all previous representations, promises, assurances, warranties, understandings, and agreements between them, whether written or oral, relating to their subject matter.

A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.



These Terms do not give rise to rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any part of these Terms.

No variation of these Terms shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

A notice given to a party under or in connection with these Terms shall be in writing and in English, by email or next working day delivery service. Notices to The Client shall be sent to the email address or address last notified to Intercx. Notices to Intercx shall be sent to the email address or address set out at <https://intercx.com/contact>

## 19. Digital Marketing

Intercx will honour the components of your chosen digital marketing scope of work, providing an agreement to a minimum 3-month contract is served and monthly payments are received in advance. In the event that payment is not received on time, we regret that further work will be halted until this is rectified.

## 20. Liability and Warranty Disclaimer

Nothing in these Terms shall operate to exclude or limit either party's liability for:

- (a) death or personal injury caused by its negligence;
- (b) fraud; or
- (c) any other liability which cannot be excluded or limited under applicable law.

Intercx shall not be liable under or in connection with these Terms or any collateral contract for any: (a) loss of revenue; (b) loss of actual or anticipated profits; (c) loss of contracts; (d) loss of business; (e) loss of opportunity; (f) loss of goodwill or reputation; (g) loss of, damage to or corruption of data; (h) any indirect or consequential loss; (i) loss or damage caused by any inaccuracy, omission, delay or error, whether as a result of negligence or other cause in the production of the website; or (j) loss or damage to The Client's artwork/photos supplied for the website, whether as a result of negligence or otherwise.

The Client agrees that Intercx is not liable for any bugs, performance issues, virus, trojan, or malware attacks or failure of their WordPress (and WooCommerce) software as WordPress (and WooCommerce) is open-source software distributed under the GPL (GNU General Public License) and is maintained and developed by a community of thousands of users and developers. Any bugs, performance issues or failure with the software will be directed to the WordPress (and WooCommerce) Development community via WordPress (and WooCommerce).org. It will be necessary to regularly update WordPress, WooCommerce, and any plugins (and any other software used on the website). Unless a support contract is opted for by The Client then updates are not the responsibility of Intercx. Therefore, Intercx cannot be held responsible for any faults, bugs, viruses, trojans, malware etc., or problems occurring on the site or with the hosting.

On handover of files from Developer to Client, the Client shall assume entire responsibility in ensuring that all files are functioning correctly before use.

Whilst every effort is made to make sure files are error free, Intercx cannot guarantee that the display or functionality of the web design or the website will be uninterrupted or error-free. If, after handover of files, errors are found in code Intercx has created and the standard development platform, domain name set-up and hosting set-up are the same as when work began, then Intercx can correct these errors for the Client free of charge for a period of 3 months, after acceptance of the work. After the 3-month period, Intercx reserves the right to quote separately for any work involved in correcting an error.

If, after handover of files, errors are found in code Intercx has created and the standard development platform, or the domain name set-up or hosting set-up has been changed, Intercx can correct errors and reserves the right to quote separately for any additional work needed as a result of changes to the browser software, domain name set-up or hosting set-up.

Should the Client go into compulsory or involuntary liquidation or cannot pay its debts in the normal course of business, Intercx reserves the right to cancel forthwith any projects and invoice the Client for any work completed.



There are sometimes laws and taxes that affect Internet e-commerce. The Client agrees that it is their responsibility to comply with such laws and will hold harmless, protect, and defend Intercx and its subcontractors from any claim, suit, penalty, tax, or tariff arising from the Client's exercise of Internet e-commerce.

Intercx may from time to time recommend to the Client that updates are needed to their site, including but not limited to new legislation compliance, software compatibility and web standards. Intercx reserves the right to quote for any updates as separate work. The Client agrees that Intercx is not liable for any failure to inform or implement these updates to their site. The Client agrees that it shall defend, indemnify, save and hold Intercx harmless from any and all demands, liabilities, costs, losses and claims arising from omission to inform or implement these updates.

The entire liability of Intercx to The Client in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the charges paid for the Services under this Agreement in respect of which the breach has arisen.

## 21. Severability

In the event any one or more of the provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the Agreement shall not be void for this reason alone. Such invalid, illegal or unenforceable provision shall be replaced by a mutually acceptable valid, legal, and enforceable provision, which comes closest to the intention of the parties underlying the original provision.

Intercx reserves the right to terminate a project with the Client at any time without prior notification if it finds the Client in breach of these Terms and Conditions. Intercx shall be the sole arbiter in deciding what constitutes a breach. No refunds will be given in such a situation.

## 22. Governing Law and Jurisdiction

These Terms and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with them or their subject matter or formation shall be governed by and construed in accordance with the law of The Netherlands.

Each party irrevocably agrees that the courts of The Netherlands shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with these Terms or their subject matter or formation.

Where one or more terms of this contract are held to be void or unenforceable for whatever reason, any other terms of the contract not so held will remain valid and enforceable by law.

Intercx reserves the right to alter these Terms and Conditions at any time without prior notice.

## 23. Zero-Tolerance for bad behaviour policy

Intercx operates a zero-tolerance policy towards bad behaviour.

The safety of our employees, clients, and visitors is an important concern to the organisation. Threats, threatening behaviour or acts of violence against employees, clients, visitors or others while on the clients or suppliers/developers' property or third-party location, conducting business or receiving services from the supplier/developer will not be tolerated. The supplier/developer reserves the right to immediately end any contract should any violations of this policy occur, and if appropriate all threatening behaviour will be reported to the authorities.

Any person who engages in violent or threatening behaviour in person, on the phone, on the Internet, social media, or who uses any electronic means to make a threat against a staff member, volunteer shall be in breach of the zero-tolerance policy and the supplier/developer will reserve the right to terminate any contract and if appropriate all threatening behaviour will be reported to the authorities.

Should any contract be terminated due to a breach of the zero-tolerance policy by the client then any outstanding invoices owed to the supplier/developer must be paid in full.