

## 1. Summary

- a. We'll always do our best to fulfil your needs and meet your expectations, but it's important to have things written down so that we both know what's what, who should do what and when, and what will happen if something goes wrong. We've tried to make this document as straightforward as possible. We've no desire to trick you into signing something that you might later regret. What we do want is what's best for both parties, now and in the future.
- b. Please note that your instructions to proceed with the work invoiced will constitute an acceptance in full of these Terms and Conditions.
- c. You are hiring us, Gary Morgan (trading as Pixelshrink) and any associated suppliers and contractors, located at 16 Commerce Square, Lace Market, Nottingham NG1 1HS to do the work we've agreed with you.

## 2. Our roles

- a. **You:** You have the authority to enter into this contract on behalf of yourself, your company or your organisation. You'll give us the assets and information we tell you we need to complete the project. You'll do this when we ask and provide it in the format we ask for, including the relevant passwords and access. You'll maintain confidentiality, review our work, provide feedback and approval in a timely manner too. Deadlines work two ways, so you'll also be bound by dates we set together. You also agree to stick to the payment schedule set out in section 18 of this document.
- b. **Us:** We have the experience and ability to do everything we've agreed with you and we'll do it all in a professional and timely manner. We'll endeavour to meet every deadline that's set and on top of that we'll maintain the confidentiality of everything you give us. You are hiring us as an independent contractor, not as an employee, and you have no right to define direction and control over us, nor the location where we will perform the work for you. We and you have no mutuality of obligation to each other for future work. We reserve the right to assign suitably experienced subcontractors or external suppliers. Any subcontractors or external suppliers will be bound to the terms of this contract and paid by us.

## 3. Design

- a. If we're designing a website for you, we create websites which will work well on a variety of devices. We may create a mock-up of your website indicate the look and feel of the main pages of the site (colour, texture and typography).
- b. You'll have plenty of opportunities to review our work and provide feedback. If you're happy with the mock-up, we will go ahead and produce your website based on it. If you're not happy with the direction our work is taking, you'll pay us in full for everything we've produced until that point and cancel this contract.
- c. Once we've completed the work, you'll have a 14-day review period to let us know in writing (email is acceptable) if there's anything you're unhappy with. If we don't hear anything during the 14-day review period, we will assume you have accepted the work and payment will become due.

## 4. Text content

- a. Unless agreed separately, we're not responsible for creating content, inputting text or images into your content management system or creating every page on your website. We provide professional copywriting and editing services, so if you'd like us to create new content, input content for you or if we see that your text needs a lot of work to bring it up to a professional standard, we can provide a separate estimate for that.
- b. If you have not submitted complete text and graphics content within two calendar months after signing the contract, we'll need to apply a fee of 10% of the one-off costs in the contract each month until the website is published.

## 5. Photographs and graphics

- a. You should supply graphic files for any design work in an editable, vector digital format, or a failing that, a high resolution digital format. You should supply photographs in a high resolution digital format. If you ask us to find or supply photographs for your website, we may issue a separate quotation for that.

## 6. Intellectual property rights

- a. **"Intellectual property rights"** means all patents, rights to inventions, copyright (including rights in software) and related rights, trademarks, service marks, get up and trade names, internet domain names, rights to goodwill or to sue for passing off, rights in designs, database rights, rights in confidential information (including know-how) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or shall subsist now or in the future in any part of the world.
- b. First, you guarantee that all elements of text, logos, images or other artwork you provide are either **owned by yourselves, or that you've permission to use them. When you provide text, images or other artwork to us, you agree to protect us from any claim by a third party that we're using their intellectual property.** We are not responsible for the content that you give to us to publish. It is for you to ensure that it is factually and legally accurate and appropriate and does not mislead or misrepresent.
- c. **We guarantee that all elements of the work we deliver to you are either owned by us or we've obtained permission to provide them to you. When we provide text, images or other artwork to you, we agree to protect you from any claim by a third party that you're using their intellectual property.**
- d. **Provided you've paid for the work and that this contract hasn't been terminated, we'll assign all intellectual property rights to you as follows:**
- e. **You'll own the website we design for you plus the visual elements that we create for it. We'll give you source files and finished files and you should keep them somewhere safe as we're not required to keep a copy.** You own all intellectual property rights of text, images, site specification and data you provided, unless someone else owns them.
- f. However, by making that content available to others through our services, or providing it to us through the services, you grant us a worldwide, non-exclusive, royalty-free, fully paid up license (with a right to sublicense) to use, copy, reproduce, process, adapt, modify, publish, transmit, display and distribute such content through any or all media or distribution methods (whether now known or hereafter developed). You also acknowledge that the purpose of some of these the services is to access the services of third-party service providers (for example, social media platforms), and that as a result you are agreeing to grant to us any and all other rights you grant to applicable third-party service providers.
- g. **We'll own any intellectual property rights we've developed prior to, or developed separately from this project and not paid for by you. We'll own the unique combination of these elements that constitutes a complete design and we'll license its use to you, exclusively and in perpetuity for this project only, unless we agree otherwise.**
- h. We will also include a discrete, unremovable link to our website in the footer of your website, if we have designed it.
- i. **We love to show off our work and share what we've learned with other people, so we reserve the right to display and link to all aspects of our creative work, including sketches, work-in-progress designs and the completed project in our portfolio and in articles on websites, in magazine articles, in books and in education work, including conferences and presentations.**

## 7. Social media and marketing services

- a. We have no control over the policies of Facebook, Twitter, YouTube, LinkedIn, Instagram, Google My Business, TripAdvisor, Google Ads, Microsoft Advertising and all other channels being utilized for campaigns. We have no say with respect to the type of content that social media or advertising channels accept now or in the future.
- b. If we build a website for you, we build it in a way that is accessible to search engines in an effort to increase its chances.
- c. We can make no guarantee that any Social Media, Advertising, Search Engine Optimisation (SEO) or Marketing Campaign will generate an increase in sales, business activity, profits, number of page visits or users, search engine ranking or any other form of improvement for your business or any other purpose.
- d. We reserve the right to reject or discontinue the social media or marketing services where we are unable to provide the services due to technical, ethical, legal, or other matters. Where applicable, We will refund your money for any services not yet rendered.
- e. By posting any public media using our services, you agree that you are following the relevant terms and conditions of the Third-Party Service Provider you are linking to.

## 8. Technology used

- a. We use various content management systems to build websites. They will aim to be compatible with HTML5, use CSS (Cascading Style Sheets), and use Javascript when necessary. In other words, we endeavour to use the best technology for your website.

## 9. Browser testing

- a. Browser testing no longer means attempting to make a website look the same in browsers of different capabilities or on devices with different size screens. It does mean ensuring that a **person's experience of a design should be appropriate to the capabilities of a browser or device.**
- b. **Desktop browsers:** If applicable, we test our work in current versions of major desktop browsers including Safari, Chrome, Edge and Firefox. The website may work in older browsers, such as **Internet Explorer, but may not look the same. We won't test in older browsers unless you specify otherwise.** If you need an enhanced design for an older browser, we can provide a separate quotation for that.
- c. **Mobile browsers:** Testing small-screen devices is essential in ensuring that a person's experience of a design is appropriate to the capabilities of the device they're using. If applicable, we test our work in:  
iOS: Safari, Google Chrome – Android: Google Chrome, Firefox, Edge
- d. **We currently don't test Blackberry, Opera Mobile, Windows Phone or other mobile browsers. If you need us to test using these, we can provide a separate estimate for that.**

## 10. Domain names

- a. We're happy to register domain names on your behalf, and the domain name will belong to you. We will do all we can to ensure the domain name is renewed on time, as long as you don't have any payments outstanding. We need you to assure us that the domain name you want to register is not someone else's trademark, as we cannot be held responsible for any costs or incidental costs for claims that your domain name violates the intellectual property of a third party.

## 11. Website care plans and maintenance

- a. We can provide you a quotation for ongoing maintenance of your website, whether designed by us or someone else. If the website was designed by us, ongoing maintenance is not included in the one-off cost for website design.
- b. Errors (both technical and typographical) attributable to us will be corrected free of charge, but we reserve the right to charge a reasonable fee for correction of errors for which we are not responsible, including malicious modification of the website by a third party, modification of the website by you or someone representing you or your organisation, and typographical errors contained in materials provided to us by you.

## 12. Web hosting

- a. If you already have web hosting, we are happy to work with your existing arrangements if possible, if not we will be happy to issue a quotation for hosting.
- b. We provide hosting for our own built websites on our preferred hosting provider, but we may use other companies with different Service Level Agreements (SLA) as necessary.
- c. Based on our current hosting provider's SLA we endeavour to have 99.9% uptime on our servers measured by calendar month. We will do everything we can to ensure that your website is available **99.9% of the time, if we fall short of this, we'll get in touch with you. There may of course times when the server will not be available, this can be scheduled or unscheduled.**
- d. Scheduled downtime is when we know it is going to happen and tell you about it in advance. Scheduled downtime will wherever possible be outside of normal office hours to minimize impact on your business.  
There may be very rare occasions when we need to restart the server during normal office hours **and it is not possible to inform you before hand. We don't make these decisions lightly and if this does happen we apologise.**
- e. Unscheduled downtime is when the server stops without us knowing it is going to stop. For a simple server hiccup, we'll get it back up and running as fast as we can.
- f. If your website is attracting heavier traffic than anticipated, we may issue you a separate quotation for an increased specification of hosting, or place limits on your website to ensure reliability of our services.

### 13. Acceptable use of our services

- a. We have the rights to refuse or remove any content that is available via any of our services. We may (but have no obligation to) remove content and accounts containing content that we determine in our sole discretion to be violate any of the following, and our hosting provider requires that you agree not to use the services we provide, including the web hosting and website, for any of the following:
- b. **Illegal Use:** You agree not to use the services for or in the pursuit of illegal purposes. We and our service providers cooperate with the authorities in investigations into illegal Internet use, and our service provider will take both criminal and civil legal action against users who use the services in an unlawful way. You agree not to directly or indirectly allow a third party to use the services in an illegal or unsuitable manner.
- c. **Harassment:** You agree not to use the services for harassment, threats, verbal abuse, and/or persistent unwanted contact(s) of any kind. Harassment covers any use of the hosting services to directly or indirectly contact any other user (including users of another Internet service) in an unwanted fashion. Harassment can be active, in forms including but not limited to unwanted emails, and/or chat messages, and/or verbal declarations on a public forum, and can be passive in the form of defamatory information posted on web sites.
- d. **Disruption/Hacking:** You agree not to make any attempt to disrupt or attack the systems or Services provided by us or our service providers or any third party (affiliated with us or otherwise). This includes any deliberate attempt to interfere with another user's ability to take advantage of services offered online, including the transmission or making available to others any worms or viruses or any code of a destructive nature through the services, and any use that interferes or attempts to interfere with the normal operations of the services, including by hacking, deleting, augmenting or altering the services or any content. This also includes any effort to secure access to hardware and hosting services without the consent of the provider for those services. Hackers will be subject to the full extent of criminal law, and our service providers reserve the right to seek damages or resort to any and/or all legal remedies against users who abuse, attack, or hack our systems, servers, or the services or whoever uses the services in a manner that is contrary to law or our Terms and Conditions and our Privacy Policy.
- e. **Fraud/False Advertising:** You agree not to post or transmit fraudulent information on or through the hosting services. This can include false advertising, identity theft, misrepresentation of any kind including phishing, forged email headers and/or fictitious email addresses.
- f. **Unsolicited Advertising/Spamming:** You agree not to post or transmit any unsolicited material through any active medium such as email, chat, messaging, chain letters, advertisements, jokes, etc. Our hosting provider does not tolerate unsolicited mass emailing ('Spamming') of any kind, and the use of any of our hosting services for this purpose is strictly prohibited. To assist us in the prevention of Spamming, our hosting provider may limit the number of recipients allowed per email and/or limit the number of emails you can send over a short period of time. Content falling in this category is defined by the receiving user's desire to be contacted in the specified manner, so kindly use good judgment if you are sending to mailing lists. You further agree not to collect or harvest account information without the explicit prior consent of those from whom you collect the
- g. **Disruptive Content:** You agree not to post or transmit any disruptive content. Certain kinds of content broadcast or displayed on the Internet can generate a great deal of disruption and reaction from the Internet community as a whole. This can include, but is not limited to, material that is considered libellous, defamatory, obscene, offensive, or extremely controversial. While we and our hosting provider do not actively censor its users, the reaction this material can generate can be expensive and time consuming. You understand and agree that we or our hosting provider may suspend or terminate your hosting services should your usage constitute disruptive content, as determined by us and our hosting provider in our sole discretion, from the Internet community at large.
- h. **Adult Content:** You agree not to use the hosting services to post or host any type of adult content on your website. It may include but not be limited to material considered to be pornographic content and images. You understand and agree that we and our hosting provider may suspend or terminate your hosting services should your usage constitute adult content, as determined by our hosting provider in its sole discretion.
- i. **Reselling or Reconfiguring the Services:** You may not resell the hosting services or redistribute or reconfigure the services to allow others to use the services in an illegal, fraudulent or inappropriate manner. Interpretation of this clause will be at the sole discretion of our hosting provider.
- j. **Weapons and Firearms:** You agree not to use the hosting services to post or host any type of weapons and firearms related content on your website. This includes but not limited to sale of parts/components/kits for weapons and firearms, 3D printed parts, demo videos, and ammunition sales. You understand and agree that we or our hosting provider may suspend or terminate your Services should your usage violates this stated policy, as determined by our hosting provider in its sole discretion.
- k. **Copyright Infringement:** We and our hosting provider respect the intellectual property rights of others and expect you to do the same. It is a violation of these Terms and Conditions to use the hosting services to transmit and/or store copyrighted material in a manner that is contrary to any applicable legislation. If our hosting provider has a reasonable belief, in its sole judgment, that you have violated these Terms and Conditions, the hosting provider may take any action it deems appropriate, which may include, without limitation, notifying you of a suspected violation, suspending your account, or terminating your account. These actions are in addition to and not by way of substitution of any and/or all other remedies that we may have against you under any applicable law.

**If you use your website and web hosting normally and legally, these won't apply, but if you are unsure if your activities fit into the above categories, please contact us to find out.**

## 14. Force majeure

- a. When designing, hosting or maintaining your website, we cannot be held responsible for website problems or delays due to circumstances beyond our control, including (without limitation) errors in software or website code written by a third party, strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, default of our subcontractors or our hosting provider's subcontractors, distributed denial-of-service (DDoS) or other network attacks, upstream or third party network outages.

## 15. Changes and revisions

- a. **The price at the beginning of this contract is based on the length of time we estimate we'll need to accomplish everything you've told us you want to achieve, but we're happy to be flexible. If you want to change your mind or add anything new, that won't be a problem as we'll provide a separate quotation for that.**

## 16. Termination

- a. The services we are providing shall terminate when they are completed and all payments have **been made in full. Alternatively, our services may be terminated by either party giving 30 days'** notice of termination in writing to the other (Notice to Terminate). In the event of Notice to Terminate being given by either party the contractual obligations shall continue until the end of the notice period unless otherwise agreed in writing by both parties.
- b. We will store your most recent content for a period of no less than 30 days of cancellation. After this 30-day period, We will delete all of your content from the services.
- c. We do not accept any responsibility for loss of content due to account cancellation.
- d. As we are a small business, its important that we are paid on time, so our services may be terminated if payment of our fees is not made in accordance with these terms, or if you enter into any form of insolvency arrangement, or suspend your business. Upon termination you shall immediately pay any outstanding sums to us.
- e. If our services have been terminated, for non-payment or any other reason, we are no longer responsible for the maintenance of websites, domain names and any other services we have **provided, and any problems or outages that arise. If you'd like to restart the services, please contact us.**

## 17. Legal terms

- a. **We'll carry out our work in accordance with good industry practice and at the standard expected** from a suitably qualified person with relevant experience. However we can't guarantee our work will be error-free.
- b. Our liability in respect of any loss of good will, loss of business, loss of profits, loss of anticipated savings, loss of use or for any other consequential, special or indirect loss or damage will be NIL, even if you've advised us of them.
- c. In respect of any other direct losses (in Contract or Tort) our total liability will not exceed £250,000 (Two hundred and fifty thousand pounds).
- d. Nothing in these Terms will exclude or limit liability for death or serious injury caused by our negligence.
- e. Finally, if any provision of this contract shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this contract and shall not affect the validity and enforceability of any remaining provisions.
- f. **We both agree that we'll adhere to all relevant laws and regulations in relation to our activities** under this contract and not cause the other to breach any relevant laws or regulations.
- g. Although the language is simple, the intentions are serious and this contract is a legal document under exclusive jurisdiction of English and Welsh courts. Please keep a copy of this document for your records.

## 18. Payments

- a. We're sure you understand how important it is as a small business that you pay the invoices that we send you promptly. You agree to stick tightly to the following payment schedule. The launch of any website presumes that the contract has been signed and returned, any deposits have been paid, and that there are no unforeseen technical issues.
- b. For one-off payments:  
Payment due on receipt of invoice.
- c. For ongoing costs:  
Payment due on receipt of invoice.
- d. We issue invoices electronically, and accept payment by BACS or the SWIFT international payments system, debit or credit card or cheque in Pounds Sterling drawn on a UK bank. All proposals are quoted in pounds sterling and payments will be made at the equivalent conversion rate at the date the transfer is made.
- e. You agree to pay all charges associated with international transfers of funds. The appropriate bank account details will be printed on our electronic invoice. We reserve the right to charge interest on all overdue debts at the rate of 3% per month or part of a month.
- f. If we've attempted to contact you for the fifth time regarding an unpaid invoice and haven't received payment one week later, we reserve the right to suspend ongoing work or, as a last resort, place limits on your website. We'll do everything we can to resolve the situation with you before it gets to that stage.

## 19. Privacy

- a. By asking us to do work for you, you accept our privacy policy at:  
<https://www.pixelshrink.com/about/privacy/>
- b. We will contact you when necessary about this contract and the upkeep of your website, billing correspondence and special occasions, e.g. holiday greetings. We will also invite you to join our mailing list.
- c. We do not sell, trade, or otherwise transfer to outside parties your personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing you, so long as those parties agree to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect ours or others rights, property, or safety. However, non-personally identifiable visitor information may be provided to other parties for marketing, advertising, or other uses.
- d. I consent to my personal data and the personal data of anyone involved in this project being collected and processed for the purposes of the work carried out under this project.

*T&C H 2020.11.16*