



# **Forefront Digital Terms and Conditions for the Provision of Services by Forefront Digital LTD.**



## Terms and conditions for the provision of Services by Forefront Digital Limited

### 1 DEFINITIONS

"You" or "Your" means the organisation or person who buys or agrees to buy or commission Services from Us; 1.2 "Purchase Order" means Your order for Services from Us. 1.3 "Contract" means the contract between You and Us for the provision of Services incorporating these Terms and Conditions; 1.4 "Services" means the services that We agree to provide to You; 1.5 "Price" means the price of the Services excluding VAT (if applicable) and all other fees We incur the provision of those Services including, but not limited to, travelling expenses, postage, delivery, and Our insurance costs incurred from time to time, all of which will be payable by You to Us; 1.6 "Us" or "We" or "Our" means Forefront Digital Limited incorporated and registered in England and Wales with company number 08743979 whose registered office is at 61 Crowstone Road, Westcliff-On-Sea, England, SS0 8BG and, where appropriate, includes Our agents, subcontractors, consultants and employees; 1.7 "Terms and Conditions" means the terms and conditions as set out in this document and any additional special terms and conditions agreed in writing between You and Us; 1.8 "Intellectual Property Rights" means all intellectual property rights wherever in the world arising, whether registered or unregistered (and including any application), including copyright, know-how, confidential information, trade secrets, business names and domain names, trade marks, service marks, trade names, patents, petty patents, utility models, design rights, semi-conductor topography rights, database rights and all rights in the nature of unfair competition rights or rights to sue for passing off. 1.9 It is expressly understood that neither You or Us are consumers, as defined by the Unfair Contract Terms Act 1977; 1.10 Any reference to a statutory provision shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

### 2 CONDITIONS

2.1 The Terms and Conditions shall apply to all contracts for Services between You and Us to the exclusion of all other terms and conditions including any terms or conditions that may have applied under any previous contract for Services between You and Us. 2.2 Any variation to these Terms and Conditions (including any special terms and conditions agreed between You and Us) shall only apply if agreed in writing between You and Us.

### 3 PRICE AND PAYMENT

3.1 The Price shall be that advised to You by Us prior to the commencement of the provision of the Services. 3.2 In addition to the Price, You must pay VAT (if applicable) and all other fees We incur in the provision of those Services including, but not limited to, travelling expenses, postage, delivery, and Our insurance costs incurred from time to time, all of which will be payable by You to Us; 3.3 In addition to the cost advised to You, continued provision of the Services may incur additional fees which will be based on Our usual hourly rates. These rates are available from Us on request and where possible these rates will be advised to You before You incur any additional costs. 3.4 If We verbally advise You of the Price We shall provide this in writing to You as soon as reasonably possible thereafter. 3.5 We shall deem Your instruction, whether received verbally or in writing, to commence the provision of the Services as Your acceptance of the Price and the Terms and Conditions. 3.6 The Price will be based on the information You provide Us with at the outset, but if the Services required by You are more extensive, more complicated, or more time consuming for Us to provide than You originally indicate, We reserve the right to raise the Price accordingly, having used Our best endeavours to advise You of this as soon as reasonably possible. 3.7 Payment of the Price and VAT and all other applicable costs shall be due within 14 days of the date of Our invoice. 3.8 We reserve the right to submit interim invoices to You during the provision of the Services, and all interim invoices must be paid within 14 days of their date.

### 4 THE SERVICES

4.1 Subject to Our acceptance of Your instruction to provide the Services, and Your compliance with the Terms and Conditions, We will provide You with the Services until the earlier of Our completion of the provision of the Services or termination of the Contract in accordance with clause 18. 4.2 A binding contract between You and Us will be formed upon the earlier of Our email You of such confirmation, or the commencement of the provision of Services by Us. 4.3 The description of the Services shall be as set out in Our accepted quotation. 4.4 We may provide You with additional services incidental to the Services if You so request, although given the nature of Our business, We may not provide You with a written fee quotation prior to doing so, and the cost of provision of any additional services will be payable by You in addition to the Price.



## 5 OUR OBLIGATIONS

5.1 We shall use Our reasonable endeavours to: 5.1.1 supply the Services in accordance in all material respects with Your Order; and 5.1.2 meet any performance dates specified in Your Order, but any such dates shall be estimates only and time shall not be the essence for performance of the Services; and 5.1.3 observe all Your reasonable health and safety rules and regulations and any other reasonable security requirements that apply at Your offices or premises and that have been communicated to Us in advance provided that We shall not be liable under this agreement if, as a result of such observation, We are in breach of any of Our obligations; and 5.1.4 resolve all notifications received from You pursuant to clause 6.2.10 within 14 days of receipt. 5.2 We will not be liable for any failure to provide the Services resulting from Your breach of the Terms and Conditions or that of any of Your employees, agents or subcontractors. 5.3 We reserve the right at any time to improve, correct, or otherwise modify any or all of the Services, and if practical We will give You reasonable notice of Our intention to do so. 5.4 Without prejudice to any of Our other rights or remedies, We may suspend the provision of the Services in part or in whole without any further liability to You if: 5.4.1 You fail to pay any sums owed to Us; or 5.4.2 We need to upgrade or maintain any of Our systems whether this has been notified to You in advance or not; or 5.4.3 Compliance with any official notification affects the Services; or 5.4.4 In Our sole opinion We deem Your use of Our systems to be excessive; or 5.4.5 Our system suffers any form of failure or deficiency or outage; or 5.4.6 Any system We use in the delivery of Services suffers any form of failure or deficiency or outage. 5.5 If We suspend the provision of the Services in accordance with this clause, We will only be obliged to recommence provision once the cause of the suspension has been rectified. 5.6 We cannot provide any covenant, representation, or warranty that any Services delivered via the internet will be delivered in a timely manner, error free or uninterrupted, and We exclude any such covenant, representation or warranty to the fullest possible extent from Our contract with You.

## 6 YOUR OBLIGATIONS

6.1 Prior to the commencement of the delivery of the Services, You or an appropriate Third Party I.T company shall back-up & make such copies of all Your computer data and other computer information to permit You or the Third Party I.T company to perform a full restore. 6.2 You must: 6.2.1 Comply with English and other applicable law in relation to the Services; 6.2.2 Comply with all regulations, policies and procedures of networks through which You access and use the Services; 6.2.3 Co-operate with Us in all matters relating to the Services; 6.2.4 Provide Us at no cost with access to Your premises, offices, data, and other facilities as We may reasonably request; 6.2.5 Advise Us of all health and safety rules and regulations and any other reasonable security requirements that apply at Your premises or offices; 6.2.6 Ensure that all Your equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant United Kingdom standards or requirements; 6.2.7 Provide all equipment necessary to access the Internet and pay all fees associated with such access. 6.2.8 Provide Us with, in a timely manner, such information as We may require, and ensure that it is accurate in all material respects. 6.2.9 Obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services. 6.2.10 Notify Us in writing if you are not completely satisfied with the Services or Our fees no later than the earlier of 7 days following completion of the provision of the Services, or receipt or our fee invoice. 6.3 You shall not use the Services: 6.3.1 for any illegal purposes; or 6.3.2 to store, retrieve, transmit or view any file, data, image or program that contains: (a) any illegal pictures, materials or information; (b) any libellous, abusive, threatening, harassing, harmful, vulgar, pornographic, obscene or otherwise objectionable material of any kind or nature; (c) any material that encourages conduct that could constitute a criminal offence, give rise to civil liability or otherwise breach any applicable local, national or international law or regulation; (d) any code or material that violates the intellectual property rights of others; or (e) any viruses, worms, "Trojan horses" or any other similar contaminating or destructive features. 6.3.3 for any spamming, chain letters or other use that may otherwise disrupt the Services or the networks through which You access and use the Services; 6.3.4 to access or attempt to access any Services account for which You have no access authorisation or duplicate, modify, distribute or display any of the data or files from any such account; 6.4 If the performance of Our obligations is prevented or delayed by any act or omission by You, or Your agents, subcontractors, consultants or employees, We shall not be liable for any costs, charges or losses sustained or incurred by You arising directly or indirectly from such prevention or delay



## **7 HOSTING**

7.1 The Services that We provide to You may either include hosting Your website or other internet based facility or introducing You to a third party to do so. 7.2 If as part of the Services We agree to introduce You to a third party that will host Your website, this will be without any initial or ongoing liability to Us whatsoever. 7.3 If We purchase the hosting services of a third party as Your agent; 7.3.1 such purchase is made without any initial or ongoing liability to Us; and 7.3.2 any contract for hosting Your website will be between You and a third party, and 7.3.3 We will not accept any liability in respect of the hosting of Your website, although We can provide You with ongoing support as part of the Services if You request, and such support will be subject to these Terms and Conditions and liable to additional charges by Us.

## **7.4 EMAIL HOSTING**

7.4.1 The Email Hosting Services that We provide to You may include introducing You to a third party. 7.4.2 If as part of the Services We agree to introduce You to a third party that will host Your email, this will be without any initial or ongoing liability to Us whatsoever. 7.4.3 If We purchase the hosting services of a third party as Your agent; 7.4.4 such purchase is made without any initial or ongoing liability to Us; and 7.4.5 any contract for hosting Your email will be between You and a third party, and 7.4.5 We will not accept any liability in respect of the hosting of Your email, although We can provide You with ongoing support as part of the Services if You request, and such support will be subject to these Terms and Conditions and liable to additional charges by Us. 7.4.6 Email support supplied by Us does not include any Device side support. 7.4.7 We are not liable for any actions taken based on recommendations by Us when it comes to Device side configuration.

## **8 WEBSITE DESIGN AND MAINTENANCE**

8.1 If as part of the Services, We agree to design and or maintain Your website (the "Website"), the provisions of this clause apply. 8.2 We will use Our reasonable endeavours to propose a form of Website to You with a cost estimate. 8.3 You must provide Us with all Website content, including but not limited to: 8.3.1 text; 8.3.2 graphical images; 8.3.3 logos; 8.3.4 animations; 8.3.5 audio and video content; 8.3.6 product content and description; 8.3.7 product stock levels; 8.3.8 product prices; 8.3.9 product price mechanisms; 8.3.10 formulas and algorithms; and ensure that all such information is complete accurate relevant up to date and not misleading at all times. 8.4 You warrant to Us, on a continuing basis, and without limitation that You own or licence all Website content You provide to Us, including but not limited to all intellectual property, trade marks, designs, logos, and copyrights. 8.5 You warrant to Us, on a continuing basis, and without limitation that Your use of Your website content You provide to Us does not infringe the intellectual property rights of any third party. 8.6 The warranties at clauses 8.4 and 8.5 shall survive termination of the Contract. 8.7 You agree to fully and effectively indemnify Us for any losses or claims We face in the event of any breach the warranty contained at clause 8.4 or 8.5. 8.8 All Intellectual Property Rights in the Website design including the Website's look and feel, functionality, algorithms, and design belong to Us, and until the provision of Services to You terminates We grant You a non-exclusive nontransferable non-subliceable licence of such Intellectual Property Rights for the purpose of operating the Website. 8.9 You have no rights, and You must not, and You must ensure that You do not permit any third party to: 8.9.1 copy; 8.9.2 adapt; 8.9.3 reverse engineer; 8.9.4 decompile; 8.9.5 disassemble; 8.9.6 modify; 8.9.7 adapt; or 8.9.8 make error corrections to in whole or in part the Website. 8.10 We will investigate any errors with the Website for a period of 3 months following Our last significant contribution to the Website (excluding any usual or minor amendment). Any errors found during this period to be as a result of Our actions will be addressed by Us without further charge, but We will charge You for all errors that We investigate and that are not as a result of Our actions and that We attempt to address whether or not Our efforts are ultimately successful. 8.11 If so requested by You, We will update Your Website, for which additional fees will be payable by You. 8.12 We will use Our reasonable endeavours to minimise any disruption to the Website during Our updating, and We will advise You in advance of any disruption likely to result in a period of non-availability exceeding 15 minutes. 8.13 If Your Website includes an on-line shopping facility, We will not enter product details on Your Website unless specifically requested by You to do so in writing, and such instruction from You shall include full details about the products as You wish them to appear on Your Website. 8.14 If requested by You, We can introduce You to a third party to manage Your online payment facilities, and any such introduction will be without any initial or ongoing liability to Us whatsoever.



## **9 ADDITIONAL WEBSITE SERVICES**

9.1 If requested by You, We can provide You with a way of optimising Your search engine results (“Search Engine Optimisation”) as part of the Services for which additional fees will be charged by Us. 9.2 We will use reasonable endeavours to improve the listing of Your Website in the major internet search engines, but We do not warrant that Your position in the search engine results will be maintained once we cease providing You with the Services. 9.3 If requested by You, We can obtain a suitable domain name to link to the Website. 9.4 If We obtain a domain name for you the domain name will be Our property, and until the provision of Services to You terminates We shall only use that domain name to link to the Website. 9.5 If We obtain a domain name for You, We will only transfer it into Your ownership if: 9.5.1 Our provision of Services to You has terminated; and 9.5.2 You have paid Us all sums that you owe Us on any account; and 9.5.3 You pay Us Our reasonable administrative costs in transferring the domain name to You, such costs being not less than £50 plus VAT per domain name.

## **10 WEBSITE BACKUP**

10.1 If We host Your website, We will backup Your website on a weekly basis. 10.2 If We do not host Your website then: 10.2.1 We will not backup Your website; but 10.2.2 if requested by You We can take a copy of Your website to enable You to restore Your website as part of the Services for which additional fees will be charged by Us. 10.3 If requested by You, We can restore Your website as part of the Services for which additional fees will be charged by Us provided that You have a sufficient backup to enable this. 10.4 We accept no liability whatsoever, for loss of files or data due to Your failure to back-up, or due to Your failure to back-up sufficiently frequently. 10.5 Backup copies of dynamic websites and databases will contain backups of files, databases, and data, but due to the nature of dynamic websites additional work will be required by You or Us to fully restore the dynamic website, for which further fees by Us will be chargeable.

## **11 HARDWARE SUPPLY**

11.1 As part of the Services We may supply You with computer and electrical hardware obtained from a third party. 11.2 Your contract for the supply of such hardware will be with a third party and not with Us. 11.3 We do not accept any responsibility for any hardware We obtain for You on Your behalf and You must ensure that all hardware is appropriate for Your current requirements and any requirements You may reasonably expect to have in the future.

## **12 HARDWARE SUPPORT**

12.1 If requested by You, We can install or repair Your computer equipment as part of the Services for which additional fees will be charged by Us. 12.2 We shall use Our reasonable endeavours in installing or repairing Your computer equipment, but We shall not be liable to You if the computer equipment is defective, inappropriate for Your requirements, incorrectly labelled, or otherwise problematic. 12.3 Our liability to You in respect of computer installation or repair services provided to You by Us is excluded to the maximum extent permitted by law. In the event that We are liable to You Our liability is subject to the limitations set out at clause 14. 12.4 Hardware installation and repair is a service We may perform on Your behalf as part of the Services. It does not form part of Our core business, and We may therefore refuse to provide these services to You at Our discretion.

## **13 PAY PER CLICK**

13.1 If requested by You, We can advise You about the possibility of increasing Your revenue through “Pay Per Click”. 13.2 Any advice provided by Us to You pursuant to clause 13.1 will be provided as part of the Services for which additional fees will be charged by Us. 13.3 Advice provided by Us to You may include an introduction to a Pay Per Click provider, and such introduction will be made without any initial or ongoing liability to Us whatsoever.



#### **14 LIMITATION OF LIABILITY**

14.1 This clause sets out Our entire financial liability (including any liability for the acts or omissions of Our employees, agents, consultants, and subcontractors) to You in respect of: 14.1.1 any breach of the Terms and Conditions; 14.1.2 any use You make of the Services; and 14.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Services. 14.1.4 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Terms and Conditions. 14.2 Nothing in the Terms and Conditions limits or excludes Our liability: 14.2.1 for death or personal injury resulting from Our negligence; or 14.2.2 for any damage or liability incurred by You as a result of Our fraud or fraudulent misrepresentation; or 14.2.3 any other liability that cannot be excluded or limited under applicable law. 14.3 Subject to the preceding clauses, We shall not be liable under or in connection with this agreement or with any collateral contract, for: 14.3.1 Your loss of actual or anticipated profits; 14.3.2 Your loss of business; 14.3.3 Your loss of contracts; 14.3.4 Your loss of opportunity; 14.3.5 Any depletion of Your goodwill reputation or similar losses; 14.3.6 Any loss of Your anticipated savings; 14.3.7 Any loss or corruption of Your data or information; 14.3.8 Any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and in each case whether such loss was foreseeable or in the contemplation of the parties and whether arising in or caused by breach of contract, tort (including negligence or breach of statutory duty or otherwise). 14.4 Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Services shall be limited to the actual sums paid by You to Us for the Services during the preceding 12 months. 14.5 We accept no liability whatsoever for any losses or harm to Your data You may incur as a result of Our actions not copied or backed up by You pursuant to clause 6.1 14.6 You shall be liable to pay Us all reasonable costs, charges or losses sustained or incurred by Us (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from Your fraud, negligence, failure to perform or delay in the performance of any of Your obligations to Us, subject to Us confirming such costs, charges and losses to You in writing.

#### **15 MISCELLANEOUS**

15.1 You shall not at any time from the date of the commencement of the provision of the Services solicit or entice away from Us or employ (or attempt to employ) any person who is, or has been, engaged as Our employee, consultant or subcontractor in the provision of the Services. 15.2 This Contract may not be assigned without the prior written consent of the nonassigning party. 15.3 You must not allow the Website or any domain name or any other aspect of the Services to become the subject of a charge, lien, or other encumbrance.

#### **16 DATA PROTECTION ACT 1998**

16.1 We process all personal data in accordance with the Data Protection Act 1998. We cannot accept responsibility for any processing conducted outside these Terms and Conditions or associated corporate procedures.

#### **17 INTELLECTUAL PROPERTY RIGHTS**

17.1 All Intellectual Property Rights in the Services shall be owned by Us, and We license all such rights to You free of charge and on a nonexclusive, worldwide basis to such extent as is necessary to enable You to make reasonable use of the Services. If You terminate the provision of the Services, this licence shall automatically terminate.



## **18 TERMINATION**

18.1 Without prejudice to any other rights or remedies which You or We may have, either party may terminate the provision of the Services without incurring additional liability to the other on giving the other not less than Three months written notice, or immediately by Us giving You notice if: 18.1.1 You fail to pay Us any amount due to Us by the due date for payment; 18.1.2 You commit a material breach of the Contract and (if such a breach is remediable) You fail to remedy that breach within 30 days of that party being notified in writing of the breach; 18.1.3 You repeatedly breach the Terms and Conditions; 18.1.4 You suspend, or threaten to suspend, payment of Your debts or You are unable to pay Your debts as they fall due or You admit Your inability to pay Your debts 18.2 On termination of the provision of the Services for any reason: 18.2.1 You shall immediately pay Us for all of Our outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, We may submit an invoice, which shall be payable immediately on receipt; 18.2.2 The accrued rights and liabilities of You and Us as at termination shall not be affected.

## **19 FORCE MAJEURE**

19.1 Neither party shall be liable to the other for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, breakdown of plant or machinery, failure of a utility service or a transport network, and the party claiming a force majeure event shall be entitled to a reasonable extension of its obligations.

## **20 SEVERANCE**

20.1 If any term or provision of the Terms and Conditions is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid illegal or unenforceable provision eliminated.

## **21 WAIVER**

21.1 A waiver of any right under the Terms and Conditions is only effective if it is in writing and it applies only to the circumstances for which it is given. 21.2 No failure or delay by a party in exercising any right or remedy under the Terms and Conditions or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. 21.3 No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

## **22 RIGHTS OF THIRD PARTIES**

22.1 A person who is not a party to the Terms and Conditions shall not have any rights under or in connection with them.

## **23 NOTICES**

23.1 Any notice required to be given under the Terms and Conditions shall be in writing and shall be delivered personally, or sent by prepaid first-class post, or recorded delivery. 23.2 Any notice shall be deemed to have been duly received if delivered personally, when left at the address of the other party or, if sent by pre-paid first-class post or recorded delivery, at 10.00 am on the second business day after posting.

## **24 GOVERNING LAW AND JURISDICTION**

24.1 These Terms and Conditions shall be governed by and construed in accordance with the Law of England and the parties hereby submit to the exclusive jurisdiction of the Courts of England.