

# Dolia Design Ltd

## Terms & Conditions

*1<sup>st</sup> November 2020*



Essential information. Please read the following terms and conditions. Your acceptance of these terms is an absolute condition of the services of Dolia Design Ltd.

You are deemed to have accepted these Terms and Conditions when you accept our quote or from the date of any performance of the service (whichever happens earlier).

These conditions apply to the Contract to the exclusion of any other terms that you try to impose or incorporate.

Dolia Design Ltd may amend these Terms and Conditions, including our privacy policy at any time by reasonable notice, including without limitation by posting revised terms on our website at the URL; [www.doliadesign.co.uk](http://www.doliadesign.co.uk). Any such modification will be effective immediately upon public posting. Your continued use of our service following any such modification constitutes your acceptance of the modified terms.

## Definitions

### ***Our Company – Service Supplier***

“We/Us/Our” means Dolia Design Ltd, a limited company Registered in England under Company Number 9092903, whose registered address is Wellington Office, Stratfield Saye, Reading RG7 2BT.

### ***Your Company – Service User***

“You” or “your” refers to you and your business, as a user of our services. A user is someone who accesses or uses our services and includes other persons jointly participating in using our services.

## General Terms & Conditions

### **1. Charges**

Unless agreed otherwise in writing or by email, we will charge you for all work produced at our current standard charge out rates (if there are any changes to such rates you will be notified by email, writing or telephone).

All rates and fees are exclusive of VAT, which will be charged in addition at the prevailing rate.

All travel expenses if incurred will be charged at the hourly rate of the corresponding job and the amount charged will be the travelling time to and from your business premises or location of works to be carried out only.

All services provided by us are billed at an agreed hourly rate, set out at the point of estimating. If work carried out takes more time than what has been estimated, additional charges will be incurred to compensate for additional time spent.

Estimated hours are only a guide and are subject to change as work commences. We will inform you of any additional charges before spending additional time on your project.

## **2. Standard terms of payment**

You will make punctual payment to us of all invoices and will indemnify us in full in respect of any third party expenses suffered or incurred by us pursuant to your instructions.

Invoices will be paid by you as follows:

1. Digital design & build projects – See section 1 under 'Digital Design & Build Terms & Conditions' at appendix 1.
2. For any services where the contractor or supplier requires payment before work commences, our invoice covering the same shall be paid before work commences.
3. For website developments that are not being hosted by Dolia Design Ltd, invoices must be paid before the website is released to the client and/or uploaded to a third-party web host.
4. General billing and unless otherwise agreed in writing: 30 days from date of invoice.

On receipt of your approval for any work, we may issue invoices for stage payments of the estimated cost thereof and the invoices shall be payable upon receipt of invoice.

For the avoidance of doubt time shall be of the essence in respect of payment.

## **3. Overdue accounts**

If you do not pay within the period set out above, we will charge you interest at the rate of 4% per annum above the base lending rate of the Bank of England from time to time on the amount outstanding until payment is received in full. Interest will accrue from the due date until payment is made.

We reserve the right to retain all work, materials and any other items in our possession relating to any matter until all invoices are paid in full.

If you do not pay within the period set out above, we can suspend any further provision of the services without notice and cancel any future services which have been ordered by, or otherwise arranged with, you. We do not accept any liability for any losses arising from our cessation of work due to non-payment.

Any queries in respect of an invoice must be raised within 14 days of the date of the invoice. After this date it will be deemed that the invoice has been accepted by you.

## **4. Data Privacy & GDPR**

Dolia Design Ltd acts as a 'Data Processor' with you, the client, being the 'Data Controller'. You are referred to the Processor Contract at appendix 2.

We do not take any responsibility for any recommendations given to you regarding Data Privacy. The contents of your website Privacy Policy and Privacy Statements is solely your responsibility and any material provided by us to you is only a guide. We recommend you seek legal assistance for all privacy materials published on your website.

## **5. Warranty by you as to ownership of intellectual property rights**

You must obtain all necessary permissions and authorities in respect of the use of all copy (written word), graphic images, registered company logos, names and trademarks, or any other material that you supply to us to include in your website, web applications or digital and print design materials.

Furthermore, it is your responsibility to check and ensure that all content added to the pages of your website or any works we complete and deliver to you, is accurate and does not contravene any laws.

You must indemnify us and hold us harmless from any claims or legal actions related to the content of your website or any works we complete and deliver to you.

## **6. Ownership & licencing**

Once you have paid us in full for our work, you have full ownership of the completed work produced.

Some licensed software used within your website or marketing package may be subject to annual renewal fees which Dolia Design Ltd will outline to you before projects are completed or started.

## **7. Search engines**

We perform search engine optimisation (SEO) according to current best practice.

We will not use any so-called 'black hat' techniques to achieve short term success in search engine rankings.

We do not guarantee any specific position in search engine results for your website.

We do not guarantee to offer improved search engine rankings.

Dolia Design Ltd will not be held responsible for any declines in search engine performance in any way as a result of the work that we have undertaken.

## **8. Consequential loss**

We shall not be liable for any loss or damage which you may suffer which is in any way attributable to any delay in performance or completion of our contract, however that delay arises.

## **9. Disclaimer**

To the full extent permitted by law, any terms, conditions, warranties, undertakings, inducements or representations relating in any way to the services we provide, other than the provisions laid out in these Terms and Conditions, whether express, implied, statutory or otherwise are excluded.

Without limiting the above, and to the extent permitted by law, any liability of Dolia Design Ltd under any term, condition, warranty or representation that by law cannot be excluded is restricted at our option to the replacement, repair or re-supply of the services or the repayment of the cost of the services that we were contracted to perform.

## **10. Subcontracting**

We reserve the right to subcontract any services that we have agreed to perform for you, at our discretion, where we consider this to be in the best interests of successful and timely completion of the project.

## **11. Non-disclosure**

We (and any subcontractors we engage) agree that we will not at any time disclose any of your confidential information to any third party. We will willingly enter into a formal non-disclosure agreement where requested and where we consider the terms of that agreement acceptable.

## **12. Additional expenses**

You agree to reimburse us for any reasonable expenses which do not form part of our proposal, including but not limited to the purchase of third party software, stock photographs, stock video, fonts, domain name registration and web hosting, or comparable expenses.

## **13. Backups**

Your website and other hosted content will be regularly and automatically backed-up, however you are responsible for maintaining your own website backups including downloading and saving them locally.

## **14. Ownership of domain names and web hosting**

If you choose to register your domain name and host with Dolia Design Ltd:

- a. you will have ownership of the domain for the duration of the registration period and full say over the control of your domain name, but Dolia Design Ltd is not able to grant access to the domain's admin/control panel interface - any requested changes will be applied by Dolia Design Ltd on your behalf;
- b. if you would like to transfer your domain name away from Dolia Design Ltd, a 'transfer away' fee may be implemented depending on the complexity of the process;
- c. it may be possible to set up direct access to the server for your company, after a security and usage consultation has been agreed. If your company has direct access to the hosting

environment, you take full responsibility for security and Dolia Design Ltd will not be held responsible for any hosting account security breaches or any errors resulting from third-party access;

- d. to ensure superior levels of reliability and performance, all our clients' websites are hosted on high speed, state of the art servers housed and managed by our industry leading network partners. We cannot guarantee 100% uptime but service availability level is consistently in the region of 99.95%. Details of the specification of our servers are freely available to our clients and can be provided upon request;
- e. if your website is compromised / hacked and needs our technical support team to spend time fixing the problem and restoring the site - this work is chargeable and is not included in our general hosting support cover.

## **15. Governing law**

The Agreement (constituted by these terms and conditions) and any further proposal shall be governed by and interpreted in accordance with the laws of England and the parties submit to the exclusive jurisdiction of the courts of England in relation to any legal proceedings arising out of or in connection with the Agreement.

## **16. Cross browser & mobile compatibility**

We endeavour to ensure that the websites we create are compatible with all the most recent versions of web browsing software made commercially (available in the UK and USA). Some specialised features may require third party extensions to be added to the website's content management system (CMS), and these may lack full cross-browser support.

Where appropriate we will substitute alternative CMS extensions or implement other solutions, on a best effort basis, where any incompatibilities are found. Due to the variety of mobile and tablet devices we cannot guarantee a website will display identically on all devices and mobile operating systems/browsers. However, when optimising websites we endeavour to test on all the popular devices and the latest operating systems.

## **17. E-commerce**

You are responsible for complying with all relevant laws relating to the advertising and selling of goods or services online (e-commerce) and to the full extent permitted by law will hold harmless, protect, and defend Dolia Design Ltd and its subcontractors from any claim, penalty, tax, tariff loss or damage arising from you or your clients' involvement or use of Internet electronic commerce.

Dolia Design Ltd will not be held responsible for any loss of sales or financial damage to your business which is caused by any error including but not limited to:

- a. Website errors
- b. Web hosting errors
- c. Website hosting 'down time'
- d. Malicious hacks/activity
- e. Developer / user input errors
- f. Payment gateway misconfiguration

- g. Payment gateway errors
- h. Shipping misconfiguration
- i. Shipping errors
- j. VAT misconfiguration
- k. VAT calculation errors
- l. Product price errors

# Appendix 1:

## Digital Design & Build Terms & Conditions

### 1. Fees, deposits & payment terms

A 50% deposit of the total fee payable under our proposal is due immediately upon you instructing us to proceed with the website design and graphic design work.

We reserve the right not to commence any work until the deposit has been paid in full.

The remaining balance is due for payment immediately when:

- a. the work is completed to your reasonable satisfaction but subject to the terms of the “approval of work” and “rejected work” clauses. The remaining 50% balance plus any additional expenses will be invoiced.

OR

- b. the project ‘deadline date’ is reached - 25% of the balance plus any additional expenses will be invoiced.

AND

- c. 14 days after the ‘deadline date’ is reached – the final 25% balance will be invoiced.

The 50% deposit is only refundable if we have not fulfilled our obligations to deliver the work required under the agreement. The deposit is not refundable if the development work has been started and you terminate the contract through no fault of ours.

When invoices related to digital design and build work are raised, they are due for payment 30 days from the date of invoice, unless otherwise agreed in writing.

### 2. Supply of materials

You must supply all materials and information required by us to complete the work in accordance with any agreed specification. Such materials may include, but are not limited to, photographs, written copy, logos and other printed material. Where there is any delay in supplying these materials to us which leads to a delay in the completion of work, we have the right to extend any previously agreed deadlines by a reasonable amount. Specific timescales will be provided to you when the project begins, which will assist you in collating and supplying the materials for the project.

Where you fail to supply materials, and that prevents the progress of the work, we have the right to invoice you for any part or parts of the work already completed.

In the event that you fail to supply materials within a [e.g. 28 day] period we reserve the right to terminate the contract and raise an invoice for any work already completed.

### **3. Variations**

Our digital design & build phase is flexible and allows a certain degree of minor variation to the original specification to be agreed. However, any major deviation from the specification may result in additional charges; prior to this event occurring it will be discussed and the you will be made aware before the work is carried out. For the avoidance of doubt we consider the following non-exhaustive list of variations to be major:

1. The addition of more than 10% of the agreed total web pages
2. The addition of more than 5 products to an eCommerce website
3. Changes to the spec of an eCommerce website including Payment Gateway, Shipping Methods, Shipping Countries, Product Variations and Currencies
4. A change in direction of brand design after initial agreed or discussed direction
5. Major changes in text content to what has already been uploaded to a website, or included into a graphic design
6. Major changes in image content to what has already been uploaded to a website, or included into a graphic design

Ultimately, the work we produce is capped at the agreed hours that are set out in the estimate. If at any point in delivering work we go over the original estimated hours, we reserve the right to charge for any additional time spent.

### **4. Project delays and client liability**

Any time frames or estimates that we give are contingent upon your full co-operation. During development there is a certain amount of feedback required in order to progress to subsequent phases. It is required that a single point of contact be appointed from your side and be made available on a daily basis, in order to expedite the feedback process. Dolia Design Ltd will not be held liable for any missed launch date or deadline if the you have been late in supplying materials, or have not approved or signed off work on time, at any stage.

### **5. Approval of work**

On completion of the work you will be notified and have the opportunity to review it. You must notify us in writing of any unsatisfactory points within 7 days of such notification. Any of the work which has not been reported in writing to us as unsatisfactory within the 7-day review period will be deemed to have been approved. Once approved, or deemed approved, work cannot subsequently be rejected and the contract will be deemed to have been completed and the remaining balance of the project price will become due and an invoice raised.

### **6. Rejected work**

If you reject any of our work within the 7-day review period, and where applicable do not approve subsequent work performed by us to remedy points recorded as being unsatisfactory, and we, acting reasonably, consider that you have been unreasonable in any rejection of the work, then we may elect to treat the contract as having been terminated and take measures to recover payment for the completed work.

## **7. Site content**

You will ensure that all your own and third party content does not infringe any applicable laws, regulations or third party rights and does not include material which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing, blasphemous or in breach of any third party Intellectual Property Rights (Inappropriate Content).

You acknowledge that Dolia Design Ltd has no control over any customer or third party content and does not monitor the content. Dolia Design Ltd reserves the right to remove content from the relevant deliverable and/or to suspend the operation of the deliverable where it reasonably suspects such content is Inappropriate Content.

You will indemnify Dolia Design Ltd against all damages, losses and expenses arising as a result of any action or claim that any of customer or third party content constitutes Inappropriate Content.

## **8. Uploading websites to third party hosting companies**

If you use a third-party web host (i.e. do not host with Dolia Design Ltd), there may be (unless previously agreed in writing, prior to commencing work) a charge to upload and configure the website which will be dependent on the complexity of the process.

We reserve the right to refuse to upload any web files to website hosting environments that we are not familiar with or that could present unreasonable technical demands on our support staff.

## **9. Circumstances beyond our control**

Dolia Design Ltd is not liable for any failure or delay in performing our obligations where such failure or delay results from any cause that is beyond our reasonable control. Such causes include but are not limited to power failure, internet service provider failure, fire, floods, storms, acts of terrorism, acts of war or any other event that is beyond our control .

## **Appendix 2:**

### **Processor contract**

You (the 'Data Controller') agree to a Processor Contract with Dolia Design Ltd (the 'Data Processor') so that it is clear what data Dolia Design Ltd will be processing on behalf of your business and that both parties understand their responsibilities and liabilities.

Dolia Design Ltd will not be held responsible for any recommendations given to you regarding how your business processes data and adheres to GDPR, but will assist where possible.

It is solely your responsibility to ensure that your website has the relevant Privacy Policy and Statement wording and that it is GDPR compliant.

All data processed via your website is solely your responsibility and is not the responsibility of Dolia Design Ltd.

Although we will process data on your behalf you remain the data controller. As such you shall be liable for, and shall indemnify (and keep indemnified) us in respect of any and all action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and payments on a solicitor and client basis), or demand suffered or incurred by, awarded against, or agreed to be paid by, us arising directly or in connection with:

- any non-compliance by you with the GDPR or other applicable legislation; or
- any Personal Data processing carried out by us in accordance with your instructions that infringe the GDPR or other applicable legislation.

#### **Client personal data**

Dolia Design Ltd will process personal data on your behalf and will follow these general data processing guidelines:

1. Subject-matters of processing

We may process data provided to us for a range of digital marketing activities, including but not limited to:

- Email Marketing
- User Account Administration
- Booking System Administration
- Customer Portal Administration
- Customer Communications

2. Duration of the processing

Dolia Design Ltd will process your client's personal data for as long as we provide our services to you, unless otherwise agreed in writing.

3. Nature and purpose of processing

Dolia Design Ltd will process your client's personal data as necessary to perform the services agreed, and as further instructed by you when using our services, unless otherwise agreed in writing.

#### 4. Categories of Data Subjects

You may submit your customers' personal data to Dolia Design Ltd, including, but not limited to the following categories of data subjects:

- Your prospects;
- Your customers;
- Your customers' children;
- Your employees.

#### 5. Types of personal data

You may submit your customers' personal data to Dolia Design Ltd as well as your own businesses personal data including, but not limited to data relating to the following types of data subjects:

- Name;
- Email address, phone number, postal address, IP address;
- Enquiry messages;
- Unsubscribe data;
- Behavioural data;
- Interaction data;
- Transaction data.

**Depending on the nature of your business**, and the requirements for data processing, Dolia Design Ltd may also process Sensitive Personal Data of the following types:

- Child data;
- Child photos;
- Child medical information;
- Adult medical information;
- Job applications & CV documents;

We encourage you to review how you control and process data and what data we process for you, ensuring that it is always necessary and the most secure option.

#### 6. Personal data processed via websites

All data that is processed via your website is your sole responsibility as the 'Data Controller'. Dolia Design Ltd will not be held responsible for any data breaches from data processed via your website.

Personal data may be processed via a website in various formats, including but not limited to:

- Contact Forms
- Registration Forms
- User Account Forms
- Newsletter Sign-up Forms
- Ecommerce Accounts
- Online Chat Widgets

- Application Forms