

Standard Terms & Conditions



ü www.CubeConnection.co.uk
* info@CubeConnection.co.uk

Where the context admits: "We" / "Our" / "Us" / "the Supplier" it includes Cube Connection Ltd or any party acting on Cube Connection Ltd's implicit instructions. "You" / "Your" / "the Customer" includes the person purchasing the services or any party acting on the customer's instructions. "Contract" refers to any Support Services Agreement, Purchase Order or other written instruction agreed with the Customer.

These Standard Terms & Conditions are to be used in conjunction with our License Agreement for Software and Website Code and our Standard Terms & Conditions for Website Hosting where appropriate and inherit from those Conditions where apt.

In consideration of the mutual covenants herein, the parties agree to the following:

1 The Supplier will:

- 1.1 Provide the Services and/or Goods as defined in the Contract as relevant, promptly, efficiently and professionally using its skill and expertise and with due care during the contract term and upon termination / completion, deliver up to the Customer all materials of the Customer in the possession of the supplier.
- 1.2 Perform the Services as defined in the contract as it thinks fit using its own equipment where appropriate subject only to such legitimate instructions of the Customer as enable the Supplier to provide the Services and abide by the rules and regulations of the Customer which are applicable to suppliers.

2 Confidentiality

- 2.1 Each party shall treat in confidence all information and data disclosed to it or coming to its attention concerning the business and practices of the other party and/or any other confidential matter and will not disclose the same to any third party other than to employees and officers who require access in order to perform their duties in connection with the Agreement.

3 Working Practices

- 3.1 The Supplier will not import any software onto the systems of the Customer without the prior consent of the Customer.
- 3.2 The Supplier will not use any facilities provided to it by the Customer for any purpose other than is authorised by the Customer.
- 3.3 The Supplier whilst on site will comply with all the Customers Health, Safety and Environmental policies and procedures (to be made available on request) and inform the Customer of any incidents that may occur.
- 3.4 The Suppliers personnel will attend any Customers Safety Induction sessions at a mutually agreeable time

4 Payment Terms

- 4.1 For Supply of Service, payment terms will be 30 days from date of invoice.
- 4.2 For supply of Goods, payment terms will be 14 days from date of invoice. Although risk in the goods supplied passes to the purchaser on delivery, legal title in such goods shall not pass to the purchaser until the Supplier has received payment in full.
- 4.3 For Web design work, stage payments will be required. 25% of the estimated agreed cost will be invoiced on completion of the analysis of requirements and placing of the initial Purchase Order. A further 50% of the estimated cost will be invoiced on completion of the design work to the customer's satisfaction. The remainder plus any costs incurred due to changes in requirements since the initial agreement will be invoiced on publication of the Web pages on a publically available server.
- 4.4 All prices quoted on the contract will be subject to VAT at the prevailing rate.
- 4.5 If the Customers payment is by cheque which is returned by the bank as unpaid for any reason, you will be liable for a "returned cheque" charge of £22.00.
- 4.6 In the event of the late or non-payment of an invoice(s) interest will be charged by the supplier on the unpaid balance at the rate of 5% above the base rate of HSBC bank plc, in force at the time, and for each day the balance remains unpaid.
- 4.7 In the event of a dispute regarding the amount being invoiced, the undisputed part of the amount will be paid within the payment terms listed in 4.1, 4.2 and/or 4.3.

5 Termination of Service Level Agreements

- 5.1 Either party may terminate a Service Level Agreement on or after the Agreement Commencement Date upon giving notice to the other of not less than 30 days or such notice period as defined in the Agreement, whichever is the longer.
- 5.2 Either party may terminate a Service Level Agreement immediately by giving notice if the other becomes insolvent within the meaning of the Insolvency Act 1986 or any amendment thereto, or has a winding up order made against it or passes a resolution to wind up, or enters into any arrangement with its creditors, or passes a resolution to cease trading or actually ceases trading, or shall be in material breach of any terms of this agreement (material breach including non payment or delayed payment of any invoice in accordance with the payment terms as defined in section 4) without prejudice to any claim arising from any such breach.

6 Copyright

6.1 Copyright for software (as detailed in our Licence Agreement) and source images produced by the Supplier, remain with the Supplier. Copies of the source code / web resolution images will be given to the Customer for the sole purpose of enabling the Customer to repair and maintain the software in accordance with the requirements of the Customer's business. Other enhancements to the code are specifically prohibited. There is no automatic right to sub-licence the software / images to third parties. **All the Suppliers own software / code / imagery is subject to our License Agreement.**

7 Liability

7.1 Our total aggregate liability to you for any claim in contract, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to re-performance of any work deemed to be defective or the charges paid by you in respect of the Services which are the subject of any such claim. Which method of redress, shall be at the Suppliers discretion.

7.2 The Supplier will not be liable to the Customer for any consequential loss suffered by the Customer as a result of work by the Supplier deemed to be defective. Consequential loss shall mean indirect losses, loss of production, loss of product, loss of use and loss of revenue, profit or anticipated profit.

8 Arbitration

8.1 If during the continuance of the Agreement or following its termination any dispute, difference or question shall arise between the parties as to the meaning or effect of the Agreement, of the rights and liabilities of the parties or otherwise howsoever then such dispute, difference or question shall be referred to arbitration by a single arbitrator to be agreed between the parties and in default of agreement within a reasonable time to be appointed by the president for the time being of the law Society of England and Wales in accordance and subject to the Arbitration Act 1996.

9 Law

9.1 The construction, performance and validity of this Agreement shall be governed in all respects by the Laws of England and subject to the jurisdiction of the English Courts. Any provisions that are subsequently found to be void shall not render other parts of the agreement void

10 Force Majeure

10.1 Neither party shall be liable for any failure to fulfil any provision of the contract/Agreement if and to the extent fulfilment has been interfered with, hindered, delayed or prevented by any circumstances beyond the control of the party concerned and which are not for his risk.

11 Removal of the Service Providers Property

11.1 Upon termination / completion of this agreement, the Customer must allow full and free access to the Supplier, to enable the recovery of the Supplier's equipment and software.

12 Warranty/Guarantee of goods supplied

12.1 If the Supplier is required to supply, in connection with the provision of the Service, any goods supplied by a third party, we do not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to you the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to us.

13 Revisions

13.1 The Supplier reserves the right to revise, amend, or modify this License Agreement, and any of our other policies and agreements at any time and in any manner. Current versions are posted on our website.

14 Headings

14.1 Headings are included in this Agreement (plus sub agreements) for convenience only and shall not affect the construction or interpretation of this Agreement.

15 Entire Agreement

15.1 These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement.

License Agreement for Software and Website Code



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1 Warranty

- 1.1 Our own software is supplied 'as is'. No warranty is given either implied or expressed. The Customer uses the software entirely at their own risk. We are not liable for any consequential loss howsoever arising caused by use of our software. This includes, but is not limited to, damage to hardware and/or software, loss of data, loss of business, or any other financial loss. We do not seek to exclude liability where prohibited by law.

2 Copyright

- 2.1 Copyright for software and source images produced by the Supplier, remain with the Supplier. Copies of the source code / web resolution images will be given to the Customer for the sole purpose of enabling the Customer to repair and maintain the software in accordance with the requirements of the Customer's business. Other enhancements to the code are specifically prohibited.
- 2.2 There is no automatic right to sub-licence the software / images to third parties.
- 2.3 Any software which uses any portion of our own code as a base may not be resold without express written permission from Cube Connection.
- 2.4 Our copyright messages within any code may not be removed.

3 Third Party Software / Images

- 3.1 Other third party software, where supplied and used, will be subject to that vendors own License Agreement. Occasionally we will also use stock imagery that also will be subject to the third party's own Content License Agreement, which is generally only for use on your own website / advertising and not for any promotional products or items for resale. The Customer shall ensure that you are aware of those terms and conditions and that you comply with them.

4 Installation and Compatibility

- 4.1 We will allow you to install the software on one live server / pc and one development server / pc only, unless otherwise agreed beforehand.
- 4.2 Our code is designed and tested on English versions of Windows only. We do not guarantee our software will run on any given version of Windows / Office, or that our websites will work with any given version of a web browser.

5 Technical support

- 5.1 Technical support will be provided free for two months after final Invoice date through our email, only on complete websites. The scope of technical support is limited to getting the website up and running. We cannot support the Customer's own modifications to the software although we will endeavour to advise Customer's who intend making modifications to the software.

6 Termination

- 6.1 We reserve the right to revoke all licenses sold to a Customer, if the terms of this agreement have been breached or our copyright has been violated. In such circumstances, the Customer agrees to destroy all copies and derivatives of the software in its possession within 7 days and remove any websites containing software used in breach of this agreement.

7 Revisions

- 7.1 We reserve the right to revise, amend, or modify this License Agreement, and any of our other policies and agreements at any time and in any manner. Current versions are posted on our website.

8 Law

- 8.1 This license agreement shall be governed by the laws of England and subject to the jurisdiction of the English Courts, which shall claim venue and jurisdiction for any legal motion or claim arising from this agreement. Any provisions that are subsequently found to be void shall not render other parts of the agreement void.

Standard Terms & Conditions for Website Hosting



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1 Web Site Hosting And Email

- 1.1 The Supplier makes no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and we shall have no liability for any loss or damage to any data stored on the Server.
- 1.2 The Customer shall effect and maintain adequate insurance cover in respect of any loss or damage to data stored on the Server.
- 1.3 The Customer represents, undertakes and warrants to us that they will use the Web Site allocated to you only for lawful purposes. In particular, the Customer represents, warrants and undertakes to us that;
 - 1.3.1 They will not use the Server in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorise or permit any other person to do so.
 - 1.3.2 They will not post, link to or transmit:
 - any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, blasphemous, profane or otherwise objectionable in any way.
 - any material containing a virus or other hostile computer program.
 - any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.
 - 1.3.3 They will not employ programs which consume excessive system resources, including but not limited to processor cycles and memory.
- 1.4 The Supplier reserves the right to remove any material which we deem inappropriate from your web site without notice. The Supplier does not host Warez or illegal MP3 content.
- 1.5 The Customer shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorised use of your account or breach of security, including loss, theft or unauthorised disclosure of your password or other security information.
- 1.6 The Customer shall observe the procedures which we may from time to time prescribe and shall make no use of the Server which is detrimental to our other customers.
- 1.7 The Customer shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and in a secure manner.
- 1.8 In the case of an individual User, you warrant that you are at least 16 years of age and if the User is a company, you warrant that the Services will not be used by anyone under the age of 16 years.
- 1.9 While the Supplier will use every reasonable endeavour to ensure the integrity and security of the Server, we do not guarantee that the Server will be free from unauthorised users or hackers and we shall be under no liability for non-receipt or misrouting of email or for any other failure of email.

2 Service Availability

- 2.1 The Supplier shall use our reasonable endeavours to make available to you at all times the Server and the Services but we shall not, in any event, be liable for interruptions of Service or down-time of the Server.
- 2.2 The Supplier shall have the right to suspend the Services at any time and for any reason, generally without notice, but if such suspension lasts or is to last for more than 7 days you will be notified of the reason.
- 2.3 The Services provided to the Customer and their account with us cannot be transferred or used by anyone other than the Customer. No more than one log-in session under any one account may be used at any time by the Customer. If you have multiple accounts, you are limited to one login session per system account at any time; user programs may be run only during log-in sessions. If the Customer's account is found to have been transferred to another party, or shows other activity in breach of this sub clause, we shall have the right to cancel the account and terminate the Services and/or this Agreement immediately.

3 Payment

- 3.1 All charges payable by the Customer for the Services shall be in accordance with the charges as detailed on the Customers invoice and shall be due and payable in advance of our service provision. We reserve the right to change pricing at any time although all pricing is guaranteed for the period of pre payment.
- 3.2 Payment is due each anniversary year following the date the Services were established until closure notice is given.
- 3.3 Without prejudice to our other rights and remedies under this Agreement, if any sum payable is not paid on or before the due date, we shall be entitled forthwith to suspend the provision of Services to you.

- 3.4 If an account goes overdue for at least seven days, the account and its associated services are suspended. A £22.00 charge will be applied upon account reactivation to cover administration costs.
- 3.5 Once an account has a suspended status, Access to files, databases and other content is explicitly denied. All files, databases and other content including the account itself is permanently deleted after ten days of account suspension.
- 3.6 Should access to files, databases and other content be required before they are deleted, account reactivation will be required.

4 Termination

- 4.1 If the Customer fails to pay any sums due to us as they fall due, we may suspend the Services and/or terminate this Agreement forthwith without notice to you.
- 4.2 If you break any of these terms and conditions we may suspend the Services and/or terminate this Agreement forthwith without notice to you.
- 4.3 If you are a company and you go into insolvent liquidation or suffer the appointment of an administrator or administrative receiver or enter into a voluntary arrangement with your creditors, we shall be entitled to suspend the Services and/or terminate this Agreement forthwith without notice to you.
- 4.4 No refunds will be made for Services suspended in accordance with 6.1, 6.2 and 6.3.
- 4.5 No refunds will be made for unused pre paid Services. Also it may also be necessary to charge the customer, if the account has utilised excessive resources - this is at the sole discretion of the Supplier.
- 4.6 We reserve the right to suspend the Services and/or terminate this Agreement at any time.
- 4.7 The Customer may cancel the Services at any time.
- 4.8 On termination of this Agreement or suspension of the Services we shall be entitled immediately to block your Web Site and to remove all data located on it.

5 Indemnity

- 5.1 You shall indemnify us and keep us indemnified and hold us harmless from and against any breach by you of these terms of business and any claim brought against us by a third party resulting from the provision of Services by us to you and your use of the Services and the Server including, without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), howsoever suffered or incurred by us in consequences of your breach or non-observance of this Agreement.

6 Limitation Of Liability

- 6.1 All conditions, terms, representations and warranties relating to the Services supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded, subject always to sub-clause 6.2.
- 6.2 Nothing in these terms and conditions shall exclude our liability for death or personal injury resulting from our negligence.
- 6.3 Our total aggregate liability to the Customer for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by you in respect of the Services which are the subject of any such claim.
- 6.4 In any event no claim shall be brought unless the Customer has notified us of the claim within 30 days of it arising.
- 6.5 In no event shall we be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

7 Revisions

- 7.1 We reserve the right to revise, amend, or modify this License Agreement, and any of our other policies and agreements at any time and in any manner. Current versions are posted on our website.

8 Notices

- 8.1 Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served two days following the date of posting.

9 Law

- 9.1 This license agreement shall be governed by the laws of England and subject to the jurisdiction of the English Courts, which shall claim venue and jurisdiction for any legal motion or claim arising from this agreement. Any provisions that are subsequently found to be void shall not render other parts of the agreement void.

10 Entire Agreement

- 10.1 These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement.