



## 1 Introduction

These Terms (this Agreement) apply to bespoke development of web hosted Application(s) or Website(s) (the Product) for a Client (the Customer) by K4IT (the Company).

## 2 Product Requirements

The Product requirements and scope will be defined in a separate quotation (the Quotation) referencing this document.

## 3 Supply of Services

### 3.1 Service Supply

Please note that this document does not represent an offer to provide Service but merely a statement of the terms under which the Company would provide them.

Given Customer acceptance, payment of the required Charges and Company acceptance; the Company agrees to supply the Services to the Customer under this Agreement.

The Company shall agree a schedule for the Services with the Customer.

The Company shall inform the Customer of any delay in the delivery of the Services as soon as reasonably practicable.

Neither the Company nor the Customer will have any liability for any delay in the supply of Services.

### 3.2 Title

The Company commits that it will not promote, offer for sale, license or sell the Customer-specific Product anywhere in the world. The Customer will take ownership and title of the Product upon completion by the Company of the Product and only then when payment has been made in full by the Customer.

It is expressly understood that the Customer has no rights, title or any vested ownership in the computer software programme(s) known as 'Yoursite™', 'YourShop™' or any of their unique intellectual property content therein contained (Yoursite™).

The Customer has no rights to copy, alter or offer for sale Yoursite™ and without prejudice to 4.3.1 and 4.3.2 of this agreement.

The Customer will not hinder or claim rights to the sale in any part of the World of Yoursite™.

The title and rights of the Yoursite™ are only relevant to the Customer ownership and title of the Product when conjoined/integrated and functioning within the specific Product supplied to the Customer. At all other times title and ownership of Yoursite™ are solely vested with the Company.

Yoursite™ is an integrated web application development framework. The Company reserves the right to develop, promote, offer for sale, license and, or sell customised web applications utilising Yoursite™ anywhere in the World.

### 3.3 Warranty

The Company warrants to the Customer that the Services will be provided using reasonable care and skill but at all times this will be subject to Defects and Downtime.

Defects may be occasioned by any actions by the Customer or by any Third Party. Where this is the case, the Company may offer to rectify the defect as a chargeable Service.

Where defects are part to the original development, the Company will provide reasonable care and priority to rectify the defect.

Downtime may be caused by routine or emergency maintenance, caused by the Customer or occasioned by any Third Party.

The Company will not be liable to the Customer or any Third Party for any losses whatsoever caused by such Defects or Downtime.

### **3.4 Website hosting, access and storage**

If the Services are to be hosted on Customer or any Third Party solutions, the Customer is responsible for all aspects of domain management and Product installation, configuration and maintenance unless specifically stated within this agreement.

## **4 Customer Responsibilities**

### **4.1 The Customer shall:**

#### **4.1.1 Backup**

Maintain security copies of the Customer's website content including text and media assets (images, photos, audio and video files) and any Product data (including databases) in line with best computing practice.

In the event of a serious fault the Customer may be required to rebuild the website or update the website, or to restore and update the Product data following a restore from a backup.

#### **4.1.2 Personal Data**

Obtain the consent of individuals (Clients) whose personal data are to be held in the Product.

#### **4.1.3 Passwords**

Keep confidential all passwords received from the Company for the purpose of the Services and notify the Company immediately upon becoming aware that a password has become known to an unauthorised Third Party.

#### **4.1.4 Use**

Only make use of the Services for a legitimate and lawful purpose.

#### **4.1.5 Virus Protection**

Complete its own tests for computer viruses in accordance with best computing practice prior to each and every operational use of the Services.

#### **4.1.6 Company access**

Allow the Company to access the Customer's website to check for any infringements of the Customer's obligations under this Agreement.

#### **4.1.7 Compliance**

Ensure that it complies at all times with all relevant laws and obligations including but not limited to any license under the Telecommunications Act 1984 which is applicable to the Customer and all related laws in any territory in which the Customer is situated or in which the Customer's Website may be accessed or made available. The Customer must also obtain any relevant consents and approvals for the installation and use of the Product. The Company will have no liability under this Agreement for failure to comply with its obligations in any case where the Customer does not comply with any such relevant laws or obligations or does not obtain such consents or approvals.

### **4.2 Indemnification**

Without prejudice to any other rights of the Company arising from this Agreement or otherwise, the Customer will indemnify the Company against all claims, losses, liabilities, expenses, fines and penalties of whatsoever nature made, incurred or imposed as a result of a breach by the Customer of the terms of this clause or the terms of this Agreement.

### **4.3 The Customer shall NOT:**

#### **4.3.1 Product**

Tamper with, attempt to tamper with, modify or alter the Product or security settings without the prior written consent of the Company, such consent not to be unreasonably withheld.

#### **4.3.2 Content (I)**

Send, transmit, make available, copy, retransmit, broadcast or publish (whether directly or indirectly) in whatever form any data, information or contractual rights, material or statement which infringes the Intellectual Property Rights or contractual or statutory rights of any person or legal entity or the laws or statutory regulations relating to defamation, contempt, blasphemy, infringement of privacy or personal data rights and any equivalent or related laws in any territory in which they are or may be accessed or made available.

### **4.3.3 Email spamming**

Make use of the Services to send or cause to be sent or forwarded electronic mail without the express or assumed agreement of the respective recipient. This shall include but not be limited to not sending large numbers of electronic mails with the same content, which is commonly referred to as "spamming".

### **4.3.4 Content (II)**

Use the Services to obtain or offer or permit to be offered for profit or otherwise any material, images, displays or services which are erotic or pornographic including but not limited to any other material, images, displays or services which are offensive, illegal or immoral or which is in breach of any legal obligation.

## **5 The Charges**

### **5.1 Development**

The charge for the Services is detailed in the Quotation.

The Customer shall pay a deposit of 50% on Acceptance of the Quotation and this Agreement and prior to the start of any development work.

The Customer shall pay a go-live payment of 50% prior to the deployment of the Product into the Live environment.

### **5.2 Payment schedule**

Unless defined in 5.1 above, all Charges and / or account balances are payable in advance of the supply of Services or on demand depending upon which event triggers the Charges. In the absence of demand, payment in full for the goods or Services supplied shall be made by the Customer to the Company on or before the tenth Working Day following the date of the invoice. The Company shall be entitled to charge such reasonable costs as it may incur in recovering any overdue account balances.

### **5.3 Invoices**

The Company shall be entitled to issue an invoice for the Charges on the Start Date or as soon thereafter as is reasonably practicable. The invoice shall be sent to the Customer's supplied email address and the Customer shall be responsible for checking receipt. The Company will if required provide invoices through the land postal system but subject to payment of the Company's Additional Service Charges that are in force from time to time.

### **5.4 Customer Payment**

The Customer agrees to pay for all Services in advance except where the Company indicates otherwise in advance in writing or via the Company website at <http://www.k4it.co.uk> or where specified in this Agreement.

### **5.5 Payment methods**

Payment of the Charges can be made by a Customer initiated bank transfer / payment.

### **5.6 Telecommunications**

The Customer acknowledges that the Charges are exclusive of any telecommunication charges. All telecommunication charges incurred by the Customer in connection with the use of the Services remain solely at all times the responsibility of the Customer. The Company does not accept liability or responsibility for any such charges.

### **5.7 Interest on outstanding balances**

If the Charges are not paid in accordance with this Agreement, the Company shall be entitled so far as is permitted by law and without prejudice to any other rights it may have to charge interest on the outstanding amount (both before and after judgment) at the rate of 5% above the base rate from time to time of Nat West Bank Plc., Letchworth, Hertfordshire from and including the due date but excluding the date the outstanding amount is paid in full.

### **5.8 Credits**

Neither the Company or the Customer shall be entitled to set off a credit against any amount owed to it by the other under the terms of this Agreement or under any other agreement prior to completion of this Agreement.

### **5.9 Refunds**

The Customer acknowledges that paid invoices related to all Services are non-refundable, in whole or in part.

### **5.10 VAT**

All prices exclude VAT, payable at the rate applicable as determined by UK government from time to time. Where services are provided for entities that are owned and operated outside of the United Kingdom VAT will not be charged.

### **5.11 Overdue accounts**

Customer accounts that are overdue by 15 Working Days after due date may be passed to a debt recovery agency and in this case will incur an administration fee of £50.00.

## **6 Liability**

**6.1**  
To the extent permitted by law, the Company shall not be liable to the Customer save as expressly provided for in this Agreement and shall have no other obligations, duties or liabilities whatsoever in contract, tort or otherwise to the Customer.

**6.2**  
So far as is permitted by law and subject to Clause 3.3 the Company makes no warranty to the Customer as to the quality of the Services or Product or the fitness for purpose of the Product and in any event, the Company shall only be liable for material breaches of its obligations under this Agreement and to the extent of 500 GBP per breach.

**6.3**  
Neither party shall have any liability to the other in respect of any breach of this Agreement for loss of revenue, business, anticipated savings or profits or any loss of use or value of any equipment or for any indirect or consequential loss howsoever arising, save as set out in Clauses 6.4, 6.5 and 6.6 below.

**6.4**  
Nothing in this Agreement shall:

- exclude or restrict the Company for liability in respect of the death or personal injury or fraud resulting from the negligence of the Company, its employees or agents
- exclude the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979 and where the Customer deals as a consumer, the conditions implied by sections 13 to 15 inclusive of the said Act and by sections 3 and 4 of the Supply of Goods and Services Act 1982

**6.5**  
The Customer will indemnify the Company for all loss of revenue, business profits, costs and expenses arising from any failure by the Customer to use the Services in accordance with this Agreement or failure to return (if required under the terms of this Agreement) the Product in good condition and against any fines or penalties imposed by any regulatory, advertising or trading body or authority in connection with the use of the site by the Customer.

**6.6**  
The Company disclaims all liabilities in connection with the following:

- loss of material uploaded
- incompatibility of the website with any of the Customer's equipment, software or telecommunications links
- technical problems including errors or interruptions of the website
- unsuitability, unreliability or inaccuracy of the website
- damage, loss or corruption of the Customer's data in any way including but not limited to unavailability following the termination or suspension of the Customer's account

**6.7**  
The Company will indemnify the Customer for claims made against the Customer by a Third Party for breach of their Intellectual Property Rights if such breach has been caused by the act, omission or otherwise of the Company, its employees or agents.

**6.8**  
Nothing in this Agreement shall prevent the Company from pursuing payment of a debt against the Customer.

**6.9**  
Where the Customer accesses the website from locations outside the United Kingdom, the Customer does so on the Customer's own initiative and is responsible for compliance with local laws.

## **7 Termination**

**7.1**  
Either party may at any time by giving notice in a written and signed summary document, terminate this agreement without compensation to the other party if the other party shall become bankrupt, or if a body corporate pass a resolution or the court

shall make an order that one party be wound up, otherwise than by way of amalgamation or reconstruction, or if a receiver or manager on behalf of a creditor shall be appointed, or if circumstances shall arise which entitles the court to make a winding up order.

## 7.2

Termination or expiry of this Agreement for whatever reason shall not prejudice or affect any right of action or remedy which shall have occurred or shall accrue thereafter to either of the parties.

## 7.3

The Company reserves the right to terminate this Agreement without notice upon any of the following events:

- the Charges and / or Additional Service Charges are outstanding for more than 10 calendar days
- the Customer is in breach of his obligations as set out in Clauses 4

## 7.4

The Customer is responsible for contacting the company to ensure that their termination request has been received.

## 8 Data Protection

### 8.1

The Company expressly points out to the Customer that by entering into this Agreement the Customer acknowledges and agrees that once the Customer's unencrypted data passes onto the Internet, it is not secure and is open to unscrupulous use. The Company cannot accept responsibility or liability for any data or information that becomes available by such means against the wishes of the Customer and the Company recommends the use of encryption for transfer of sensitive data or information.

## 9 Force Majeure

The Company shall not be liable for any failure in performing its obligations under this Agreement due to circumstances beyond its reasonable control.

## 10 Complaints

The Customer should address any complaints concerning the provision of the Services to the Company at the Company's address shown in Clause 15.1 or by sending an email to [webmaster@k4it.co.uk](mailto:webmaster@k4it.co.uk).

## 11 Assignment

Neither this Agreement or any rights or obligations hereunder may be assigned or transferred or sub-contracted by the Customer in part or in whole to a Third Party, without the prior consent of the Company such consent not to be unreasonably withheld. The Company may on providing notice to the Customer assign this Agreement in part or in whole to any third party.

## 12 Third Party Rights

Nothing in this Agreement shall be taken as granting any rights expressly or impliedly whether contractual or statutory to persons other than the Company and the Customer, whether by virtue of the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## 13 General

### 13.1

No delay, neglect or forbearance on the part of either party in enforcing against the other party any terms or conditions of this Agreement shall either be or be deemed to be a waiver in or in any way prejudice any right of that party under this Agreement, unless such waiver shall be in writing.

### 13.2

Any notice, invoice or other document which may be given by either party under this Agreement shall be deemed to have been duly given if sent by first class post, or by electronic mail or facsimile transmission, to such person and such address as either party shall nominate for this purpose from time to time.

All notices, instructions and communications given on behalf of the Customer shall be deemed to have been given by the Customer's representative authorised for that purpose.

### 13.3

The Product is to be Used only by the Customer's nominated Customer Users.

### 13.4

This Agreement shall be construed and governed in all respects in accordance with the Law of England and Wales and the English Courts shall have exclusive jurisdiction in respect of any disputes arising hereunder.

### 13.5

Each party shall treat as confidential all information received by it from the other party relating to the other party's business, customers, strategies and plans, and such information may only be used for the purpose of this Agreement and may only be disclosed in strict confidence to its professional advisers or any person to whom disclosure is required by law, to its employees or subcontractors where reasonably necessary for the purposes envisaged by this Agreement, and where otherwise specifically permitted by this Agreement.

## 14 Definitions

For the purposes of this Agreement unless otherwise stated, the following terms or objects have the meaning defined below:

<b>Term:</b>	<b>Meaning:</b>
"Additional Service Charges"	Any charges payable to the Company for services not included in the set Charges, which are payable in accordance with the Clauses within this agreement and which may vary from time to time. Details of Additional Service Charges can be found on the Company website at <a href="http://www.k4it.co.uk">http://www.k4it.co.uk</a>
"Agreement"	Any contract for the provision of Services by the Company to the Customer that incorporates these Terms.
"this Agreement"	Is a reference to this Agreement together with any document referred to or incorporated herein.
"Amendment Notice"	Any notice of variations to the Charges in respect of the Services as may be issued from time to time.
"Charges"	The charges payable by the Customer for the provision of the Services, which may vary from time to time. Details of the Charges can be found on the Company website at <a href="http://www.k4it.co.uk">http://www.k4it.co.uk</a>
"Clause" or "Clauses"	Is a reference to clauses within this Agreement.
"Client"	A customer or prospective customer of the Customer.
"Company"	K4IT Limited, a company registered in England and Wales under number 05371264 whose registered office is currently situated at 48 Queens Road, Sandy, Bedfordshire, SG19 1HD, United Kingdom.
"Contract Period"	The time period commencing on the Start Date and expiring on the date the Agreement is terminated in accordance with Clause 7 of these Conditions;
"Customer"	The Client, as defined in the Quotation, the organisation offering to pay for the Services within this Agreement, once the Company has confirmed acceptance of the offer.
"Customer User"	A nominated individual, member or employee of the Customer that has a Product User Record with security access that allows the adding, deleting or updating of website content and settings.
"Downtime"	Period(s) of time where the Customer's Product may be unavailable due to routine or emergency maintenance, faults related to the wider internet, Customer action, any Third Party or for changes to Service.
Headings and numbering	The headings and numbering within this Agreement are for convenience only and shall not affect the interpretation of these Conditions.
"include" "includes" and "including"	These words are to be construed without limitation.
"Intellectual Property Rights"	All or any registered or unregistered intellectual property rights in any part of the world, including but not limited to patents, design rights, copyrights, topographical rights, know-how, rights in inventions and ideas and rights to confidence together with any right to apply for any such intellectual property rights and the benefit of any applications for any such intellectual property rights.
"Job"	A transaction within the Product that delivers a product or service to a Client by the Customer and / or Vendor(s)
"Person" or "Persons"	Include a reference to anybody corporate, unincorporated association or partnership. The singular shall include the plural and vice versa.
"Product"	The web hosted Application(s) or Website(s) developed / supplied under this Agreement.
"Quotation"	The Customer quotation referencing this document.

<b>Term:</b>	<b>Meaning:</b>
"Service" and "Services"	The providing of the Product or any other products or services of the Company.
"Start date"	The date upon which the Company confirms acceptance of the Customer's offer to pay for the Services in accordance with these Conditions.
"Statute", "Statutory Instrument", "Regulation", "Order" or "License"	Are references to a particular statute, statutory instrument, regulation, order or license as substituted, varied or re-enacted from time to time, unless the context otherwise requires.
"Third Party"	A Person whom is not a party to this Agreement.
"User Record"	An identified user in the Customer's instance of the Product.
"Vendor"	A partner or supplier of the Customer.
"Working Day"	A day of the week other than a Saturday or Sunday on which the Clearing Banks in the United Kingdom are open to the public for the transaction of business.
"Yoursite™" 'YourShop™'	The web application development framework [computer software programme(s)], or any of its unique intellectual property content therein contained, to be used to develop the Product. Yoursite and YourShop are Trade Marks of K4IT Limited.

## 15 Company details

### 15.1 Contacting K4IT

Contact K4IT at:

K4IT Limited, 48 Queens Road, Sandy, Bedfordshire, SG19 1HD, United Kingdom

Registered in England, No. 5371264.

Or

Telephone: +44 (0) 1462 733 474

Mobile: +44 (0) 7963 643 067

Email: [mike@k4it.co.uk](mailto:mike@k4it.co.uk)

Web: <https://www.k4it.co.uk>

### 15.2 K4IT VAT Registration

The Company is registered for VAT in the UK, registration number 931 3333 53.