

iPages Terms & Conditions

1. **DEFINED TERMS**
 - 1.1. In this Agreement, the following expressions shall have the following meanings:
 - 1.2. **Additional Services** refers to website development, design or website support that is requested by the Customer in addition to the Services.
 - 1.3. **Business Day or Business Hours** means 9:00 a.m. – 5:00 p.m. Monday through Friday, excluding public holidays in the United Kingdom.
 - 1.4. **Data Breach** means a compromise of security that leads to the accidental or unlawful destruction, loss, unauthorised disclosure of, or access to Protected Data transmitted, stored or otherwise processed by us. Protected Data is information that identifies an individual.
 - 1.5. **Fees** means the fees (including, for the avoidance of doubt, the Monthly Fees) due for the provision of the Services as together with any Value Added Tax or other taxes or dues payable thereon. The Fees are set out in your Proposal.
 - 1.6. **Inappropriate Material** means material that under the laws of any jurisdiction where the material can be accessed or stored, is or may be considered to be, any of the following: - unlawful, threatening, abusive, harmful, malicious, obscene, pornographic, profane, libellous, defamatory, infringes any intellectual property rights, constitutes or encourages a criminal offence or contains a virus, worm, Trojan horse or other harmful code, or may be damaging to another person or body.
 - 1.7. **Incident** means an issue or error arising when using the Services. Incidents shall be classified, resolved and escalated in accordance with the Incident Management defined within your Service Level Agreement.
 - 1.8. **Insolvent** means for the purpose of these Terms and Conditions:
 - 1.8.1. a company becomes insolvent:
 - 1.8.1.1. when it enters administration within the meaning of Schedule 81 to the Insolvency Act 1986;
 - 1.8.1.2. on the appointment or an administrative receiver or a receiver or manager of its property under Chapter I of Part III of that Act, or the appointment of a receiver under Chapter II of that Part
 - 1.8.1.3. on the passing of a resolution for voluntary winding-up without a solvency under section 89 of that Act; or
 - 1.8.1.4. on the making of a winding-up order under Part IV or V of that Act.
 - 1.8.2. a partnership becomes insolvent:
 - 1.8.2.1. on the making of a winding-up order against it under any provision of the Insolvency Act 1986 as applied by an order under section 420 of that Act; or
 - 1.8.2.2. when sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors
 - 1.8.3. an individual becomes insolvent:
 - 1.8.3.1. on the making of a bankruptcy order against him under Part IX of the Insolvency Act 1986; or
 - 1.8.3.2. on the sequestration of his estate under the Bankruptcy (Scotland) Act 1985 or when he grants a trust deed for his creditors.
 - 1.8.4. a person also becomes insolvent if:
 - 1.8.4.1. he enters into an arrangement, compromise or composition in satisfaction of his debts (excluding a scheme of arrangement as a solvent company for the purposes of amalgamation or reconstruction); or
 - 1.8.4.2. (in the case of a partnership) each partner is the subject of an individual arrangement or any other event or proceedings referred to in this clause.
 - 1.8.5. Each of sub clauses 1.6.1 to 1.6.4 also includes any analogous arrangement, event or proceedings in any other jurisdiction.
 - 1.9. **We, us, iPages** means iPages Limited whose registered offices are at RIFT House, Ashford, Kent, TN25 4AZ.
 - 1.10. **Material** means text, graphics, images, sound, video or any combination thereof.
 - 1.11. **Minimum Term** means the minimum term set out in the Proposal.
 - 1.12. **Monthly Fees** means the monthly hosting and licence fee set out in your Proposal that is payable from month to month.
 - 1.13. **Proposal** refers to the document within your Agreement describing the Services we shall provide to you.
 - 1.14. **Relevant Legislation** means such laws of England and Wales and the Customer's country as relate to data protection and any laws of England and Wales and the Customer's country governing Inappropriate Material.
 - 1.15. **Services** means the services described in the Proposal.
 - 1.16. **Website** means your website or websites hosted by us.
 - 1.17. **You, Customer and/or the Client** means the person, company or partnership identified in the Proposal as the customer.
2. **OUR OBLIGATIONS**
 - 2.1. We agree that:
 - 2.2. We will provide the Services in accordance with the Service Level Agreement.
 - 2.3. We will provide the Services with reasonable care and skill.
 - 2.4. We will maintain security practices in accordance with the Information Security Policy and will provide the specific security services set out in the Proposal.
3. **YOUR OBLIGATIONS**
 - 3.1. You agree that:
 - 3.2. You will pay the Fees as set out in the Proposal.
 - 3.3. You will provide to us any information required by us for the provision of the Services and will co-operate with us to enable us to provide the Services to you.
 - 3.4. You will use reasonable security precautions in connection with your use of the Services. You must comply with the laws applicable to your use of the Services and with the Acceptable Use Policy. You must cooperate with iPages' reasonable investigation of Service outages, security problems, and any suspected breach of the Agreement.
 - 3.5. You are responsible for keeping your account permissions, billing, and other account information up to date using your iPages admin area.
4. **UNAUTHORISED ACCESS TO YOUR DATA OR UNAUTHORISED USE OF THE SERVICES**
 - 4.1. You agree that:
 - 4.2. We are not responsible to you or any third party for unauthorised access to your data or the unauthorised use of the Services unless the unauthorised access or use results from iPages' failure to meet its obligations to you.
 - 4.3. You are responsible for the use of the Services by any employee of yours, any person you authorise to use the Services, any person to whom you have given access to the Services, and any person who gains access to your data or the Services as a result of your failure to use reasonable security precautions, even if such use was not authorised by you.
5. **TERMS AND FEES**
 - 5.1. You agree that:
 - 5.2. This Agreement will continue until it is terminated by either us or you. The Minimum Term of this Agreement is set out in the Proposal.
 - 5.3. The Fees payable by you are as set out in the Proposal.
 - 5.4. You agree to pay the Fees within 30 days of our invoice to you.
- 5.5. If you fail to make any payment that is due and payable under this Agreement, we shall be entitled, without limiting any other rights we may have:
 - 5.5.1. to charge interest on the outstanding amount at the rate of 4% above the Bank of England Base Rate; and
 - 5.5.2. to suspend the Services until payment (together with any interest) is received in full by us.
6. **INDEMNITY**
 - 6.1. You agree to:
 - 6.2. indemnify, keep indemnified and hold harmless iPages, its officers, employees, agents, sub-contractors and affiliated companies from and against any and all costs, claims, losses, damages or liability (whether civil or criminal) and expenses (including, but not limited to, legal fees) sustained or incurred by iPages or its any of its officers, employees, agents, sub-contractors or affiliated companies directly or indirectly and in any jurisdiction as a result of:
 - 6.2.1. the provision by iPages of the Service;
 - 6.2.2. any breach by you of this Agreement; or
 - 6.2.3. any content or material supplied or sent by you to us.
7. **CONFIDENTIALITY**
 - 7.1. We agree that:
 - 7.2. We will process the information that you provide to us in accordance with our Privacy Policy and our Information Security Policy.
 - 7.3. We will disclose information received from you to our employees, consultants, sub-contractors or suppliers who need to receive the information in order for us to provide the Services to you.
8. **GENERAL & CHANGE OF SERVICE PROVISIONS**
 - 8.1. We agree that:
 - 8.2. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, arrangements, understandings and representations (whether oral, written or otherwise) made by or between the parties.
 - 8.3. You acknowledge that you have not relied on any representation made by us unless such representation is expressly included in this Agreement.
 - 8.4. No change, alteration or modification to this Agreement shall be valid unless it is in writing and is expressed to change, alter or modify this Agreement and signed by you and us.
 - 8.5. If any provision of this Agreement or part thereof shall be void for whatever reason, the offending words shall be deemed deleted and the remaining provisions shall continue in full force and effect.
 - 8.6. The rights and obligations of the Customer under this Agreement are personal to the Customer and the Customer undertakes that it shall not nor purport to: assign, lease, charge, sub-license, or otherwise transfer such rights and obligations in whole or in part. If as a result of a breach of this sub-clause, a third party makes any claim against iPages, the Customer shall indemnify iPages in respect of all costs, expenses and damages suffered by iPages as a result thereof.
 - 8.7. No term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this Agreement.
 - 8.8. iPages has the right to sub-contract any of the work required to fulfil its obligations under this Agreement.
 - 8.9. iPages may change any of these Terms and Conditions by giving the Customer seven (7) days notice in writing of the intended change. At the expiration of the notice period the changed terms and conditions shall be substituted for the terms and conditions so changed.
 - 8.10. The Customer may request a change to the scope of this Agreement in the form of a request for Additional Services. In the event of such a request from you:
 - 8.10.1. we will agree in writing a price for those Additional Services, the scope of those Additional Services and the terms for payment;
 - 8.10.2. we will agree in writing any changes to the Fees within this Agreement as a result of the Additional Services;
 - 8.10.3. before that additional signed agreement is received by us we shall have no obligation to carry out the Additional Services; and
 - 8.10.4. the provision of those Additional Services shall be subject to these Terms and Conditions.
 - 8.11. Clause headings have been included in this Agreement for convenience only and shall not be considered part of, or be used in interpreting, this Agreement.
9. **WEBSITE CONTENT**
 - 9.1. We agree that:
 - 9.2. The content of your website is your responsibility.
 - 9.3. We shall have no responsibility to validate Material or to ensure that it does not contain Inappropriate Material or to check it for content, correctness, legality or usability. It is the Customer's responsibility to upload the content of the Website and to check that such content functions satisfactorily.
 - 9.4. If iPages assists the Customer in regard to the matters referred to herein and that assistance does not form part of the Service contracted for, then in so doing, iPages does not accept any responsibility or liability in regard thereto.
 - 9.5. The Customer has sole responsibility for the content of all Material appearing on its Website hosted by iPages. For the avoidance of doubt, this clause shall apply to all Material, whether published on the Website or on behalf of the Customer, whether by iPages or a third party.
 - 9.6. The Customer warrants, represents and undertakes in relation to all Material (including any Material which it requests iPages or any third party to post on its Website hosted by iPages) that:
 - 9.7.1. it is not Inappropriate Material; and
 - 9.7.2. the Customer either has the right to publish such Material in each jurisdiction from which the Website may be accessed or stored and/or has obtained full and effective licence(s) from all relevant third parties allowing the Customer or a third party acting on behalf of the Customer to use the Material and to permit its dissemination world wide.
 - 9.8. The Customer undertakes not to link to any Inappropriate Material from its Website.
 - 9.9. iPages shall retain the right at all times to refuse to host any Material and to suspend availability of the Website and/or to remove any Material already appearing on the Website which in the reasonable opinion of iPages:
 - 9.9.1. constitutes or would if posted constitute Inappropriate Material;
 - 9.9.2. breaches or would if posted breach Relevant Legislation or any other applicable regulations, standards or codes of practice (notwithstanding that compliance may not be compulsory); and/or
 - 9.9.3. harms or would if posted harm the reputation of iPages in any way.
 - 9.10. iPages rights to suspend availability of the Customer's Website and/or remove shall be without prejudice to the Customer's sole responsibility for content of the Website and to the warranties given by the Customer relating to that content.
 - 9.11. Hosting of Material by iPages shall not under any circumstances constitute a waiver of any of its rights or of any claim it might have in relation to such Material or of its rights in relation to any breach of the Customer obligations under this Agreement.
 - 9.12. The Customer undertakes:

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- 9.12.1. to virus-check fully all data supplied to iPages; and
- 9.12.2. not to embark on any course of action, whether by use of its Website or any other means, which may cause a disproportionate level of Website activity without providing at least seven day's prior notice in writing to iPages.
- 10. SUSPENSION OF SERVICES**
- 10.1. We may suspend Services without liability if:
- 10.2. we reasonably believe that the Services are being used in breach of the Agreement;
- 10.3. you don't cooperate with our reasonable investigation of any suspected violation of the Agreement;
- 10.4. there is an attack on your Website or if your Website is accessed or manipulated by a third party without your consent;
- 10.5. we are required by law or a regulatory or government body to suspend your Services; or
- 10.6. there is another event for which we reasonably believe that the suspension of Services is necessary to protect the iPages network or our other customers.
11. We will give you advance notice of a suspension under Section 10 of at least twelve (12) Business Hours unless we determine in our reasonable commercial judgment that a suspension on shorter or contemporaneous notice is necessary to protect iPages or its other customers from imminent and significant operational, legal, or security risk.
- 12. TERMINATION**
- 12.1. We agree that:
- 12.2. You may terminate this Agreement:
- 12.2.1. if we materially fail to meet any other obligation stated in the Agreement and do not remedy that failure within thirty (30) days of your written notice describing that failure.
- 12.2.2. following the expiry of the Minimum Term you may terminate this Agreement on 30 days' notice.
- 12.2.3. you will also have the specific rights of termination as set out in paragraph 9 (Service Failure and Resultant Termination Rights) of the Service Level Agreement.
- 12.3. In the event of termination, you will pay us any Fees that are due. Save as aforesaid, you will have no other rights on termination.
- 12.4. We may terminate the Agreement if:
- 12.4.1. you are Insolvent;
- 12.4.2. the individual signing the Agreement did not have the legal right or authority to enter into the Agreement on behalf of the person represented to be the customer;
- 12.4.3. you fail to comply with any other obligation stated in the Agreement and do not remedy the failure within thirty (30) days of our written notice to you describing the failure;
- 12.4.4. you breach any provision of the Acceptable Use Policy more than once even if you remedy each breach; or
- 12.4.5. we give you 30 days notice of termination (provided that we shall not terminate this Agreement under this clause 12.3 before the expiry of the Minimum Term).
- 12.5. If we terminate this Agreement you will pay us any Fees that are due.
- 13. LIMITATION OF LIABILITY**
- 13.1. We agree that:
- 13.2. We will not be liable to you for indirect losses.
- 13.3. Our total liability to you is limited and will not exceed:
- 13.3.1. for Services an amount that is equal to the total Monthly Fees that have been or would be payable by you in the six (6) months preceding the occurrence of the date on which you notify us of the claim; and
- 13.3.2. neither party will be liable to the other in any way for any special, incidental, economic, data breaches, or indirect loss or damages, or for loss of data, loss of profits, revenues, customers or contracts, wasted management time, increased costs or expenses, whatsoever and howsoever arising including in connection with the performance, non-performance or delayed performance of the Services or otherwise under this Agreement even if that party has been advised by the other or should have reasonably been aware of the possibility of such loss.
- 13.4. Nothing in this Agreement limits or excludes either party's liability for any loss or damages resulting from:
- 13.4.1. death or personal injury caused by its negligence; and
- 13.4.2. any fraud or fraudulent misrepresentation.
- 13.5. We agree that the fees for the Services properly reflect the delineation of risk between the parties and that each party agrees to ensure that it will be responsible for making its own arrangements for the insurance of any loss in excess of its accepted legal liability as necessary.
- 14. PUBLICITY**
- 14.1. We may publicly disclose that we are providing Services to you and we may use your name and logo to identify you as our customer in promotional materials, including press releases.
- 15. SOFTWARE**
- 15.1. We agree that:
- 15.2. You may not copy any software we provide for your use, unless expressly permitted by this Agreement or use such software after the expiration or termination of the Agreement.
- 15.3. You may not remove, modify or obscure any copyright, trademark, or other proprietary rights notices that appear on any software we provide for your use.
- 15.4. Unless permitted by the terms of an open source software licence, you may not reverse engineer, decompile or disassemble any software we provide for your use except and to the extent that you are expressly permitted by applicable law to do this, and then following at least ten (10) days advance written notice to iPages.
- 16. RECOMMENDATIONS**
- 16.1. From time to time, iPages personnel may recommend third party software or other products and services for your consideration. If we do so:
- 16.2. iPages makes no representation or warranty whatsoever regarding such products and services;
- 16.3. Your use of any products and services not provided by iPages is governed by the terms of your agreement with the provider of those products and services, and is at your sole risk; and
- 16.4. iPages is not responsible in any way for the third party product's performance, features nor failures.
- 17. WHO MAY USE THE SERVICES**
- 17.1. We agree that:
- 17.2. You may permit your subsidiaries and affiliated companies to use the Services if you wish, however you are responsible for the acts or omissions of your permitted users.
- 17.3. Unless agreed between the Customer and iPages, iPages will provide support only to you, not to your customers, subsidiaries or affiliates.
- 17.4. There are no third party beneficiaries to the Agreement, meaning that your customers, subsidiaries, affiliates, and other third parties do not have any rights against either of us under the Agreement.
- 18. DATA PROTECTION**
- 18.1. We agree that:
- 18.2. Each of us agrees to comply with our respective obligations under the Data Protection Act 1998 (the "Act") as applicable to personal data that it controls or processes as part of, or in connection with, its use or provision of the Services. Specifically, but without limitation, you must comply with the Act as it relates to personal data that you store or transfer using your Website.
- 18.3. We agree that we will not provide access to personal data that you store on your Website to any subcontractor or affiliate outside of the EEA.
- 19. DATA CENTRES**
- 19.1. We agree that:
- 19.2. We are constantly upgrading our data centre facilities and in order for you to benefit from this, you agree that we may relocate the servers underpinning your website technology within our data centres, make changes to the provision of the Services, URLs and your IP addresses and may establish new procedures for the use of the Services.
- 19.3. We may also make changes to DNS records and zones on iPages operated or managed DNS servers as we deem necessary for the operation of the shared network infrastructure. In each case, we will give you reasonable advance notice and use all reasonable endeavours to minimise the effect that such change will have on your use of the Services.
- 20. SOFTWARE UPDATES**
- 20.1. We agree that:
- 20.2. We have the right to update your software as frequently as deemed to be required by the iPages development team. iPages shall make best endeavours to promptly resolve all Incidents relating to updates.
- 20.3. Should the Customer notice an Incident, resulting from a software update, the Customer shall notify us in accordance with the Incident Management process defined within your Service Level Agreement.
- 20.4. Where the Customer has requested that an update is expedited (i.e. rolled out without the testing period recommended by iPages Limited) then the Customer waives their rights to the incident reporting, escalation and refunds defined within your Service Level Agreement.
- 21. NOTICES**
- 21.1. We agree that all notices given under this Agreement shall be in writing and shall be delivered as specified in this clause.
- Notices given by iPages to the Customer
- 21.2. The notice shall be sent to the address of the Customer or such other address or electronic mail address as iPages shall reasonably believe will come to the notice of the Customer. For the avoidance of doubt, where iPages do not know the present whereabouts of the customer, a notice shall be properly served if it is sent to the address of the Customer given in the Agreement. Any such notice may be delivered personally, by first class pre-paid letter, or electronic mail and shall be deemed to have been served as follows:
- 21.2.1. By hand delivery - at the time of delivery to the premises
- 21.2.2. By first class - 24 hours after the date of mailing where the address is within the United Kingdom and after 3 working days of the date of mailing where the address is outside the United Kingdom
- 21.2.3. By electronic mail on transmission.
- Notices given by the Customer to iPages
- 21.3. The notice shall be sent to our current address at the time and date of giving the notice, and shall be deemed to have been served as follows:
- 21.3.1. By hand delivery - at the time of delivery provided that the notice is handed to an officer of iPages Limited. Where the notice is not so delivered to an officer of iPages Limited, the delivery shall be deemed not to be effective service.
- 21.3.2. By first class post on receipt by iPages
- 21.3.3. By electronic mail - on receipt, by the Customer, of electronic mail confirmation from iPages that they have received the notice
- 21.4. iPages shall not be liable for any loss suffered by the Customer or any third party or be deemed to be in default for any delays or failures in performance hereunder resulting from acts or causes beyond its reasonable control or from any acts of God, acts or regulations of any governmental or supra-national authority.
- 21.5. Any delay or forbearance by iPages in enforcing any provisions of this Agreement or any of its rights hereunder shall not be construed as a waiver of such provision or right thereafter to enforce the same.
- 22. OWNERSHIP OF INTELLECTUAL PROPERTY**
- 22.1. We agree that:
- 22.2. Each of us retains all right, title and interest in and to our respective trade secrets, inventions, copyrights and other intellectual property.
- 22.3. Any intellectual property developed by iPages during the performance of the Service(s) shall belong to iPages unless we have agreed with you in advance in writing that you shall have an interest in the intellectual property.
- 22.4. You do not acquire any ownership interest in or right to possess the Hosted System, and you have no right of physical access to the Hosted System.
- 22.5. We do not acquire any ownership interest in or right to the information you transmit to or from or store on your iPages servers or other devices or media.
- 23. ASSIGNMENT/SUBCONTRACTORS**
- 23.1. Neither party may assign the Agreement without the prior written consent of the other party.
- 24. FORCE MAJEURE**
- 24.1. Neither of us will be in breach of the Agreement if the failure to perform the obligation is due to an event beyond our control, such as significant failure of a part of the power grid, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organised labour action, terrorism, or other events of a magnitude or type for which precautions are not generally taken in the industry.
- 25. GOVERNING LAW & LAWSUITS**
- 25.1. The Agreement is governed by the English law and each of us expressly and irrevocably submits to the exclusive jurisdiction of the courts of England and Wales.
- 25.2. Each of us agrees that it will not bring a claim under the Agreement more than two (2) years after the event giving rise to the claim occurred.