

# 2HEADS

## Terms & Conditions

**Two Heads Ltd** (t/a 2HEADS Design & Marketing)

### General Terms & Conditions of Business

#### Office Hours

Two Heads office hours are 9am – 5pm, Monday to Friday. Telephone calls received out of hours will be diverted to our answering machine and dealt with on the next working day. Where staff mobile telephone numbers are provided, we ask that you exercise discretion when calling out of hours and only call in emergencies, as in some cases these are also the staff's personal telephones. We appreciate your understanding.

In order to deal more effectively with your queries, we ask that you put any questions to us in writing, preferably via email. This system allows us to distribute questions to the appropriate departments, and thereby respond to you, more efficiently. Ways to contact us: Email: [info@2headsdesign.co.uk](mailto:info@2headsdesign.co.uk) and for amendments or updates please email: [graham@2headsdesign.co.uk](mailto:graham@2headsdesign.co.uk), post: Two Heads Design & Marketing, One Business Village, Emily Street, Hull, HU9 1ND. Telephone 01482 213728.

#### Provision of Materials

You agree to provide us with the specific copy, images and information we require in order to create your product, or to advise us as to where we can locate such materials. We accept no responsibility for your website not being put live/product being completed by a specific date if we are unable to secure necessary and/or suitable information and/or materials from you. If you cannot supply the information you wish to feature in your product, we will do what we can to obtain it, but we accept no responsibility for errors, omissions or discrepancies which may be present on the final product, as these may arise through our lack of specialist knowledge regarding the content of your product. The time taken to compile the data, as well as any time required to correct errors, omissions or discrepancies which have arisen through you not providing us with adequate materials, will be charged to you at our standard rate. We accept no responsibility for the delay caused in providing you with the final product as a result of your supplying us with insufficient or unsuitable materials. This does not apply if the additional cost could have been avoided but for unreasonable delay on the part of Two Heads in ascertaining the unsuitability of the materials with which you provide us. Where you supply or specify materials, we will take every care to secure the best results in the finished product, but we accept no responsibility for imperfect work caused by defects in or unsuitability of materials so supplied or specified.

#### Print Proof Agreement

If the sales representative has provided you with a proof, your approval of the proof confirms that you agree to the design and contents of the printed document as depicted on the proof. By agreeing to the proof, you absolve Two Heads of all liability for any errors, omissions or discrepancies which may be present on the proof. Once you have agreed the proof, if supplied, you are not able to make any changes to the final product, nor are you able to hold Two Heads responsible for anything you are unhappy with. This contract revokes your right to take any kind of action against Two Heads for any aspect of the work with which you are later dissatisfied. Signing the Project Contract means that, as long as the finished product is as discussed with the sales representative and consistent with the proof if supplied, you must pay in full for the work. This fact applies whether or not you later take issue with any aspect of the product. These terms are final and non-negotiable. The proofing stage is the final opportunity to make changes to the content/design.

## **Making Changes After Proof Stage (Print Only)**

If a change is requested, we will do everything we can to make the correction before the printing starts, but we cannot guarantee this. We accept no responsibility, under any circumstances, for any mistakes present on the completed work, as the signing-off of a proof absolves us of all liability (see "Proof Agreement" above). Once the proof is signed off or agreed, whether verbally or via email, we incur a film / plate(s) charge and this is passed on to you as part of the total charge (see "Price Breakdown"). Any changes made after a proof is signed off will result in a further film / plate(s) charge.

## **Print Quality (Print Only)**

Every effort will be made to obtain the best possible colour reproduction on customer's work but because of the nature of the processes involved, Two Heads cannot guarantee an exact match in colour or texture between any materials with which you supply us, and the printed article.

## **Quantity Supplied (Print Only)**

Every effort is made to produce the exact quantity of items ordered. However, some variation is inherent in the print process and so you accept that minor variations in quantity are possible. These do not affect the price charged.

## **Claims (Print Only)**

Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to Two Heads within three clear days of delivery (or, in the case of non-delivery, within 28 days of dispatch of the goods) and any claim in respect thereof must be made in writing to Two Heads and the carrier within seven clear days of delivery (or, in the case of non-delivery, within 42 days of dispatch). All other claims must be made in writing to Two Heads within 28 days of delivery. Two Heads shall not be liable in respect of any claim unless the aforementioned requirements have been complied with except in any particular case where the customer proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim made as soon as reasonably possible.

## **Standing Material (Print Only)**

All materials (including but not limited to film, plates, negatives and positives) produced and used by Two Heads during the production process remain the property of Two Heads. Where these materials are provided by the client, they remain the property of the client. Two Heads reserves the right to dispose of lithographic work immediately after the order is executed unless written arrangements are made to the contrary. In the latter event, rent may be charged for the safe-keeping of the materials.

## **Payment Terms (Print)**

New customers agree to pay a deposit of 50% of the final bill upon ordering, and to pay the outstanding balance on delivery of the completed work. Existing customers agree to adhere to the terms stated on the invoice. All deposit payments are non-refundable.

## **Website Updates & Site Maintenance**

These are charged at our standard hourly rate (or part thereof). If you want to introduce new material in the form of extra pages, additional functions, or more information than is already available on your site, this must be paid for as a new job.

## **Website Hosting – Service Level Agreement**

This Service Level Agreement (SLA) describes the standard level of service that all our website hosting customers can expect from Two Heads Ltd and the remedies we offer if we fail to provide that level of service. This Service Level Agreement runs in conjunction with our standard Terms & Conditions.

Two Heads Ltd provides professional level web hosting service for its clients with a minimum of 99.7% uptime, excluding maintenance, as defined below.

Network downtime is defined as the customer's hosted website being unable to be viewed or accessed through the Internet, caused by failure of network equipment or services managed by Two Heads Ltd, excluding scheduled

or emergency maintenance.

Scheduled Maintenance means any maintenance in the network/servers of which the customer is notified at least 5 days in advance. Emergency maintenance means any maintenance in the network/servers that: (a) in Two Heads' sole discretion, is necessary to avoid an immediate threat to the networks/servers or customer's server and (b) of which customer is notified.

## Monitoring

We use a professional 3rd-party monitoring service that notifies us of any downtime problems with our hosting servers. Wherever possible any such problem will be treated with the utmost urgency and resolved as soon as practically possible.

## Email

This SLA does not include the provision of email services. Any email service provided by Two Heads Ltd is provided without warranty and the client cannot hold Two Heads Ltd responsible for any problems or issues arising out of the sending or receiving email. We cannot be held responsible for spam, phishing, viruses or any other malicious act outside our control.

## Reporting a Problem with your Website

If your website does not appear to be functioning, in the first instance please try to view the site from a different location and/or web browser. If you require technical support it is provided by on a first-come, first-served "best effort" basis. Please send an email to 'info@2headsdesign.co.uk'. We aim to at least acknowledge, if not fully answer, all emails within 1 working hour. We aim to answer the phones during working hours, but under times of high demand or staff sickness, may defer to an answering service where we promise to return all messages as soon as possible. Working hours are: Monday to Friday 9am – 5pm, excluding Bank Holidays and the period between Christmas Day and New Year's Day.

## Remedy

We will aim to remedy any website downtime as soon as practically possible and treat the situation as urgent. You will be kept notified of the progress via email. We reserve the right to limit such resolution to normal working hours.

## Compensation

If we do not meet our minimum level of service (after allowing for Maintenance), the client shall be entitled to a credit of 3x the amount paid (on a pro-rata daily basis) for each full day of web service not being provided. Consequential and Financial Loss is explained in our standard Terms & Conditions.

## Invoicing

Website hosting and domain name renewal runs annually, paid in advance. An invoice will be sent automatically at least one month prior to renewal. Should a client NOT wish to renew the hosting service, we request a notice period of no less than 1 month in advance of cessation along with details to where you would like the web files sent. We reserve the right to charge a small administration/technical fee to transfer website files and associated domain names. If we do not receive such a request, it will be assumed that you DO wish the web hosting and domain name to be renewed and are in agreement with the payment terms for the following year. Should we be informed after this 1 month's notice period, we cannot be held liable for any delays caused in the transfer of hosting of your website to another server. You will be liable for the payment of the domain renewal, if we have already renewed it on your behalf. Any domains transferred away from us may incur registrant transfer fees.

## Data Back-Up

As a matter of day-to-day business, all data and files generated by Two Heads Ltd are backed-up on a daily basis and kept off-site. Should you require a full daily back-up to be made of your website files, this can be facilitated for an additional fee. We do not warrant that any data will be backed-up correctly, nor that any successful restoration of any data will be possible. We do not accept liability for loss or damage to any data stored on the server or back-up mediums. We recommend that you make a local back-up of your website.

## Exceptions

The client shall not be entitled to any credit hereunder if the network downtime is caused by: (i) actions of the customer or others authorised by the customer to use the service under the Agreement; (ii) customer application, software, or customer's operating system failure, (iii) the result of network maintenance activity, (iv) denial of service attack, hacker activity, or other malicious event or code targeted against Two Heads Ltd or a Two Heads' customer, or (v) failure of any network or Internet Infrastructure not owned or managed by Two Heads (vi) If customer has more than one website hosted on Two Heads' networks or servers, then a claim may be accepted for only one hosted website.

## Systems

Any systems, including eCommerce and Content Management System, provided to the client remain the intellectual property of Two Heads Ltd. and as such no access is given to the source code or database. Systems cannot be transferred away from our provided hosting solution. E-commerce/CMS E-commerce/CMS systems will be provided as an empty shop/site, and training will be given to the client(s) on using the system. A delay in the client populating the e-shop/site will not be accepted as a reason for delayed payment as, once it is ready to be populated and training has been given, Two Heads job is done. Two Heads offers a service to populate the client's shop site/CMS on their behalf, and prices are available on request for this service. This does not include any photography, and where clients feel unable to create their own imagery of products, a photographer must be sought. Two Heads are happy to recommend independent photographers where necessary, but the contract will be between the client and said photographer. Additional training and support packages are available, and again the prices for these services are available on request.

In the case of a bespoke solution (website), upon settlement of all outstanding monies due to Two Heads for the development / design of such solution, full copyright and title will pass to the client.

## Warranty

Two Heads guarantees all of its websites / bespoke software solutions provided to clients insofar as any faults or bugs will be rectified within a reasonable period of time so as not to interrupt the service provided by clients to their clients / users for an unacceptable time. Any software provided by Two Heads proving to be faulty or defective will be repaired / replaced free of charge to the working standard equivalent to launch. Two Heads is not responsible for the updating of any 3rd party software used in the development on a website or online service. Two Heads will advise the client of any software updates that should be carried out (as newer or more secure versions become available) and can implement such upgrades at a cost to the client, if the client wishes to upgrade. Two Heads cannot be held responsible for any software within a website getting hacked or becoming otherwise compromised, so we always recommend that clients keep their websites updated to the latest software versions.

## Website Proofs

Once a client has agreed the 'look and feel proof' of the website design/structure and instructed Two Heads to proceed to full development, any subsequent changes in style or design requested by the client will be charged for at the appropriate hourly rate.

## Delayed Project

Should a project be delayed for more than one month, through no fault of Two Heads, we will invoice the client for all the work that we have completed to date, leaving the remaining balance for invoicing upon completion, or sooner if there are subsequent delays.

## Exceptions (Web)

We accept that certain details regarding your business, such as telephone numbers and email addresses, sometimes change, and that the details placed in a proof are liable to change. To this end we will amend smaller details such as these as part of our construction package. This policy applies throughout your contract with Two Heads: if a minor detail needs to be amended, we are more than happy to do so, free of charge. Larger changes, such as the creation of a new page or introduction of a new feature on your site, or the sourcing / changing of images are not covered by this policy and must be paid for.

## Payment Terms

You agree to pay 50%, plus hosting, with order; the balance is due upon completion. When we have finished building your site, we will put it live on our own server under a temporary name, for which we will give you a Staging Address (URL). After we have informed you of the site's location on our server, you have 48 hours to view the site and ask for any amendments to be made. The site can be kept live for a longer period if you specifically request this. After the 48-hour viewing period has elapsed, the final invoice will be issued as – apart from minor alterations or transfers onto other domain names – our work on the site is then complete. We will then (upon payment of the final 50%) put the site live on its own domain name. All pre-payments are non-refundable. Payment for all other work is within 30 days of invoice. Ownership of goods is only transferred when payment has been made.

## Copyright

Unless negotiated and agreed in writing, the copyrights of general artwork, commissioned artwork, illustrations, website design, programming and copy belong to Two Heads. Copies of artwork and photographs may be made available for an agreed fee. If you supply us with material, it is your responsibility to obtain all necessary copyrights for its use, and we assume that you possess these. In such cases, the copyright belongs to you. By signing this agreement, you agree to indemnify Two Heads from any claim which arises regarding the use of material with which you supply us. We reserve the right to use any artwork or printing we produce for the purposes of promoting our services unless you request otherwise in writing.

## Quotes/Estimates

Estimates are based on current costs of production and are subject to amendment after acceptance to meet any rise or fall in such costs, as passed onto us by our suppliers. Excluding variations and design changes we expect these prices to remain valid for 28 days. All prices quoted are net and VAT is charged extra at the current rate.

## Illegal Matter

Two Heads reserves the right not to print any matter deemed illegal, libellous or offensive, or which may be an infringement of the proprietary or other rights of any third party. This agreement indemnifies us in respect of any claims, costs and expenses arising out of any libellous matter or any infringement of copyright, patent, design or of any other proprietary or personal rights contained in any material printed for the customer. The indemnity shall extend to any amounts paid on a lawyer's advice in settlement of any claim.

## Consequential Loss

Two Heads accepts no liability whatsoever for consequential or third party losses, resulting in a delay in delivery, or incorrect artwork, howsoever caused.

## Financial Loss

Two Heads accept no liability whatsoever for financial loss or loss of earnings arising from products or services provided by Two Heads.

## Force Majeure

Two Heads accept no responsibility if we are unable to carry out any provision of the contract for any reason beyond our control including (without limiting the foregoing) Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract. During the continuance of such a contingency you may, by written notice to ourselves, elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

## Liability

Two Heads shall not be liable for any loss to the customer arising from delay in transit caused by circumstances beyond Two Heads control.

## Price Breakdown

The invoice we send you will be itemised, showing the cost of the design and research process, as well as the production itself. Supplying us with suitable material will, therefore, reduce the time spent on design and, thereby,

the final charge. VAT is charged at the current Customs & Excise rates and according to current regulations, irrespective of whether or not it is included in a price quotation.

### **Jobs Put On Hold or Cancelled by the Client**

Jobs put on hold or cancelled by the client during production will be invoiced at current stage and materials. This invoice must be paid in full together with any VAT that falls due accordingly.

### **Credit Terms**

For invoices not settled within the agreed credit terms, we reserve the right to charge interest on the overdue debt at 2% above the RBS base rate at the time and an administration fee to cover the debt recovery costs.

### **Insolvency**

Any customer ceasing to pay their debts in the ordinary course of business or proving unable to pay their debts as they become due or, being, a company, is deemed to be unable to pay its debts, or has a winding-up petition issued against it or, being a person, commits an act of bankruptcy or has a bankruptcy petition issued against it, Two Heads, without prejudice to other remedies, shall

(i) have the right not to proceed further with the contract or any other work for the customer and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the customer, such charge to be an immediate debt due to it, and

(ii) in respect of all unpaid debts due from the customer, have a general lien on all goods and property in its possession (whether worked on or not) and shall be entitled on the expiration of 14 days' notice to dispose of such goods or property in such manner and at such price as we think fit and to apply the proceeds towards such debts.

### **Data Protection**

Two Heads agrees to keep the confidential information of its clients confidential, including all administration areas of websites and details of referrers and those who are referred. All such data recorded by a website will be completely secure, and all information will be treated as confidential in accordance with the Data Protection Act.

E&OE

Updated 16/3/2018.