

Terms & Conditions

1. DEFINITIONS

"Goods" means any goods, products and/or services provided by the Company as ordered by the Client

"Company" means Themes for iWeb (and themesforiweb.com)

"Client" means the person, firm or company placing an order with and/or purchasing goods from the Company.

2. APPLICATION

These terms and conditions apply to any provision of services, goods or materials by the Company to the Client.

3. FORMATION OF CONTRACT

All Goods sold by the Company are sold subject to the Company's standard terms and conditions (as detailed below) which form part of the Client's contract with the Company. Terms and conditions on the Client's order form or other similar document shall not be binding on the Company.

4. QUOTATIONS

The prices, quantities and delivery time stated in any quotation are not binding on the Company. They are commercial estimates only which the Company will make reasonable efforts to achieve.

5. RIGHT TO SUB CONTRACT

Subject to informing or obtaining such consent of the client as may be required by the code of conduct of ESOMAR/MRS, the Company shall be entitled to sub-contract all or any part of the work.

6. TIMETABLE

The Company will use its best endeavors to supply the services or materials to the client within the quoted time (normally immediately for downloads or 21 days from order of custom themes or otherwise as agreed) but time will not be of the essence of the contract.

7. COPYRIGHT

7.1 The Client acknowledges that the rights to the Goods are owned by the Company and that the Goods are protected by United Kingdom copyright laws, international treaty provisions and all other applicable national laws.

7.2 The Client may use Goods purchased from the Company to create web-sites for their own clients however the Goods or any part of the Goods may not be distributed or resold (except in the form of a completed iWeb site for a client) without the express written permission of the Company.

8. RISK OF LOSS

The risk of loss or damage to the Goods shall pass to the Client upon delivery or download of the Goods.

9. PAYMENTS

9.1 All invoices of the Company shall be paid by the Client prior to downloading of a product or within fifteen (15) days, in the case of custom themes, of the date of invoice unless otherwise agreed in writing by the Company. In the event of late payment, the Company may charge interest on the amount outstanding before and after judgement at the rate of four (4) percent above the Base Rate of Barclay's Bank plc in force from time to time from the due date until the date of payment. Alternatively, for invoices unpaid 30 days after the due date, the Company may impose a surcharge equal to 2.5% of the outstanding amount.

9.2 If any amount of the invoice is disputed by the Client the, Client shall inform the Company of the grounds for such dispute within seven days of delivery of the goods and shall pay to the Company the value of the invoice less the disputed amount in accordance with these payment terms.

9.3 Where the Company requires payment of a deposit, the Client acknowledges that the deposit is not returnable.

9.4 All fees are exclusive of value added taxes which will be added to invoices where appropriate.

9.5 The Company reserves the right to increase a quoted fee in the event that the client requests a variation to the work agreed on a custom theme.

10. CANCELLATION

In view of the nature of the service, any order - once confirmed by the Company - is not cancelable. Cancellation of the Order by the Client will only be accepted on condition that any costs, charges and

expenses already incurred, including any charges that will be levied by the list-owner on account of his expenses, work or cancellation conditions will be reimbursed to the Company forthwith.

11. DELIVERY

11.1 Delivery by the Company will be deemed to have taken place when the product has been downloaded from which ever third-party server is being used by the Company to host its products.

11.2 Delivery by the Company will be deemed to have taken place when the materials are handed to the custody of the Client at his premises or to a deputed messenger or courier when posted. The Company will be entitled to charge the Client for any expenses of delivery other than normal postage charges.

11.3 If an order is, at the Client's request, sent electronically, the time recorded on the sending equipment shall be deemed the time of delivery, system delays notwithstanding. (nb - electronic dispatch can be provided only on request and at the Client's risk. The Company reserves the right to substitute conventional delivery methods without notice or penalty should electronic despatch prove inconvenient.)

12. NOTICE

All written notices to be served on or given to the client shall be sent or delivered to the client's principle place of business and shall be treated as having been given upon receipt.

If notice is sent electronically, the time recorded on the sending equipment shall be deemed the time of delivery, system delays notwithstanding. (nb - electronic dispatch can be provided only on request and at the Client's risk. The Company reserves the right to substitute conventional delivery methods without notice or penalty should electronic despatch prove inconvenient.)

13. LOSS OR DAMAGE TO SUPPLIES

The Company will take all reasonable steps to ensure the protection from loss, damage or destruction of the services or materials it supplies to the Client (or which may be received from the Client).

14. USAGE OF THE SERVICES OR MATERIALS

14.1 Unless agreed and indicated in writing by the Company, the Client (and their clients) shall be entitled to use the services and materials provided (i.e. the samples) only for the purpose of conducting market research to be carried out in conformity with the recognized ESOMAR/MRS Code of Conduct of the market research industry. The Client shall not otherwise be entitled to store, pass on (whether to his/her client or other person) or use these services and materials.

14.2 The Client shall bear responsibility for ensuring that all usage of information contained within any samples is in accordance with and does not contravene any Data Protection or other laws, regulations or other trade customs and practices. The Company bears no liability for any omissions or faults in these respects.

15. CONFIDENTIALITY

Both parties shall maintain strict confidence and shall not disclose to any third party any information or material relating to the other or the other's business which comes into that party's possession and shall not use such information and material. This provision shall not, however, apply to information or material which is or becomes public knowledge other than by breach by a party of this clause.

16. EMPLOYMENT OF PERSONNEL

Subject to the prior written consent of the Company the Client shall not induce to employ, whether as an employee, agent, partner or consultant, any employee of the Company directly associated with delivery of the Goods.

17. WARRANTY

17.1 The Company warrants that it has the right to provide the Goods but otherwise the Goods are provided on an "as-is" basis without warranty of any kind, express or implied, oral or written including, without limitation, the implied conditions of merchantable quality, fitness for purpose and description, all of which are specifically and unreservedly excluded. In particular, but without limitation, no warranty is given that the Goods are suitable for the purposes intended by the Client.

17.2 The Company warrants that the Goods will be supplied using reasonable care and skill. The Company does not warrant that the Goods supplied are error-free, accurate or complete.

17.3 Both parties warrant that they are registered under the Data Protection Act in respect of the collection, processing and use of the Goods. Each party will comply with the Act including but not limited to its obligations in respect of any personal data which it may supply to or receive from the other party.

17.4 The Client acknowledges that the Company is required to uphold at all times, in letter and in spirit, the British Codes of Advertising and Sales Promotion.

18. LIMITATION OF LIABILITY

18.1 The Company shall not be liable for any claim arising out of the performance, non-performance, delay in delivery of or defect in the Goods nor for any special, indirect, economic or consequential loss or damage howsoever arising or howsoever caused (including loss of profit or loss of revenue) whether from negligence or otherwise in connection with the supply, functioning or use of the Goods. Any liability of the Company shall in any event be limited to the license fees paid by the Client in the year in which the event of default arises.

18.2 Nothing herein shall limit either party's liability for death or personal injury arising from the proven negligence by itself or its employees or agents.

18.3 The Client shall fully indemnify the Company against any liability to third parties arising out of the Client's use of the Goods.

18.3 The Company totally recommends creating a complete back-up of a Clients computer system before installing any third-party application, software or related product (in this case an item supplied by the Company).

19. FORCE MAJEURE

The Company will not be liable to the Client for any loss or damage suffered by the Client as a direct result of the Company, its sub-contractors or the list-owner from whom the sample or other service or material is derived being unable to perform the Contract in the way agreed by reason of cause beyond its control including Act of God, accident, war, riot, lockout, strike, flood, fire, power failure, breakdown of plant or machinery, delay in transit, postal delay, or any other unexpected or exceptional cause or circumstance.

20. GOVERNING LAW

These Terms of Trading shall be subject to and construed in accordance with the laws of England and the parties hereby submit to the exclusive jurisdiction of the English courts