

- Article 1. **These terms and conditions define the agreement between CLIENT (CLIENT) and e64 Limited (E64). Acceptance of the proposal from E64 implies acceptance of these terms and conditions.**
- Article 2. **Services Offered**
- 2.1 E64 shall perform services as defined in this proposal.
- 2.2 To the extent that CLIENT requires additional assistance or information from E64, E64 will provide Related Services for an agreed additional cost, not including expenses. Both parties prior to any Related Service being performed shall mutually agree upon such additional costs. Allocation of time is subject to availability. CLIENT understands and agrees to the following caveats for the services specified.
- 2.3
- (a) Search Engine Registration - Search Engine registration cannot guarantee CLIENT's website(s), will be included in searches made via that Search Engine. Inclusion in Search Engine indexes is at the sole discretion of the Search Engine administrators over which E64 has no influence.
- (b) Search Engine Optimisation - No search engine optimisation can guarantee where web pages will rank as this depends on relevance to the search criteria and how the Search Engine interprets that criteria in relation to CLIENT's website.
- (c) Link Building - Link building programs cannot guarantee how many websites will place back-links to CLIENT's website, or how this ultimately will affect the ranking; however it is widely accepted that back-links from reputable websites will have a positive effect on website ranking.
- (d) Visitor Count Predictions - Where provided, predicted visitor counts can only be used as a guide and are not a guarantee in any way for the number of visitors that CLIENT's website will receive.
- Article 3. **Remuneration**
- 3.1 CLIENT shall pay to E64 a fee as defined in the quotation. CLIENT agrees to pay for each service itemised in the quotation on delivery of said service by E64.
- 3.2 Where more than one item or service is grouped under one cost, they will all be invoiced on delivery of the last item or service in the group.
- 3.3 Where E64 has delivered some, but not all items or services within a cost group, but is prevented for more than one (1) calendar month from delivering all services in that group for any reason not within E64's control, or if the client ceases to trade or terminates the project for any reason including those defined in Article 6 of these terms, the services that have been delivered will be invoiced at E64's standard rate for that item or service, the sum of which may equal but will not exceed the cost for the given group the item or service is quoted within.
- 3.4 The following items or services are considered delivered when the given criteria has been reached;
- (e) Keyword Research and Competitive Analysis: on delivery of the report either by email or post.
- (f) Web Page Optimisation: on provision of the optimised text by email or post, or published to test or live servers.
- (g) Website and Email Hosting;
- (h) Hosting independent from a project: when domain has transferred to E64 servers.
- (i) Hosting as part of a website development project: when the website goes live.
- (j) Website Design: on approval of the Design Visuals.
- (k) Website Development: on publication of the first draft to test servers.
- 3.5 All prices quoted in this proposal, including that in paragraph 3.7, are subject to VAT and valid for 30 days from the date of the proposal.
- 3.6 CLIENT agrees to E64's payment terms to settle all invoiced amount within fourteen (14) days of date of invoice.
- 3.7 There shall be an optional £50 per month or part of month late penalty for fees referenced by Article 3.1 applicable at E64's sole discretion.
- 3.8 There shall be no right of set-off or recoupment with regard to remuneration under this agreement.
- Article 4. **Ownership of Systems, Intellectual Property and Copyright**
- 4.1 The CLIENT authorises E64's use of all client logos, trademarks, Web site images, etc., for any use as deemed necessary by E64 for search engine marketing and optimisation of CLIENT's website.
- 4.2 The CLIENT warrants that it is legally entitled to use, and saves E64 harmless regarding, all materials provided to E64 by the CLIENT during the course of this agreement.
- 4.3 E64 shall retain copyright over all SEO work done until the final payment is made, subject to Article 7.2.
- 4.4 The CLIENT understands that where E64's proposal includes the delivery of an eSPOSURE eCommerce system, all eSPOSURE licenses, including 'Subscription' and 'Subscription Free' licenses cover full and complete use of the eSPOSURE eCommerce system for the duration of the licence. Ownership of the intellectual property, programming code, database, processes, web pages and technology used to run eSPOSURE remain with E64. Licenses only allow eSPOSURE to be implemented and run on E64 servers. All web design graphics and all customer, product and sales data within the eSPOSURE system and database is owned by the customer and will be made available to the customer at any time while the license is valid.
- 4.5 Where E64 creates Google AdWords, Microsoft adCenter or Yahoo Search campaigns for pay per click advertising, the campaign will be setup as a E64 account. Ownership of this account will reside with E64. Full administrative access to the account will be provided to the customer while E64 continue to manage or oversee the campaign but may be withdrawn, at E64's sole discretion, on termination of these services.
- 4.6
- Article 5. **Indemnification and Access**
- 5.1 CLIENT shall indemnify and save harmless E64 and E64's directors, officers, employees, agents and assigns from and against all claims, actions, obligations, liabilities, damages, losses and judgements, including any incidental costs and expenses, arising out of or attributed, directly or indirectly, to the actions agreed to by the CLIENT in this agreement.
- 5.2 The CLIENT acknowledges that E64 is a specialist and does not profess expertise in the CLIENT's area of business. The CLIENT is responsible for, and holds E64 blameless for, the content, trademarks and other aspects of the website that are related to the CLIENT's business, industry, and competitors.
- 5.3 In the event that E64 is not developing nor managing the CLIENT's website, the CLIENT agrees to provide the following:
- (l) The CLIENT must provide E64 with current passwords and user IDs needed to gain remote access to the client's Web site files via FTP software or similarly functioning software. E64 is responsible for maintaining confidentiality of the passwords and user IDs.
- (m) Where FTP access is not possible, client agrees to provide an email address of a technician who can upload requested changes on a timely basis. E64 cannot be held responsible for delays once the technician has been notified of the upload request. A copy of the request will be sent to the CLIENT.
- (n) Access to raw log files or existing statistical reporting to facilitate Web site traffic reporting. E64 will not be unable to supply these reports if raw log files or existing statistical reporting is unavailable.
- (o) If client's site is sparse in textual content, The CLIENT will provide additional relevant text content in electronic format for the purpose of creating additional web pages or increasing the content on existing ones, at E64's direction and discretion. If this content is not or cannot be provided, E64 cannot be held responsible for results related to the absence of such materials. The CLIENT further agrees to allow E64 to modify keyword density, positioning and other E64 related aspects of the content without restriction.
- 5.4 The CLIENT agrees that no work shall be done on the website during the optimisation process without E64's knowledge and previous consent. E64 shall not be responsible for delays, costs, or errors attributable to unauthorised changes to the website during the term of this contract.
- Article 6. **Terms and Termination**
- 6.1 Either Party may terminate this Agreement in the event that the other Party breaches a material condition hereof, provided that the first Party gives written notice to the second Party of the breach. The second Party shall have thirty (30) days from receipt of such notice to correct the breach. In the event the breach is not remedied within this period, the first Party may, in its sole discretion, terminate this Agreement within a reasonable time after the expiry of the thirty (30) day period.
- 6.2 Notwithstanding any other provision of this Agreement, the Parties agree and acknowledge that the provisions of Article 4 **Error! Reference source not found.**, Article 5 and Article 7 shall survive the expiration or termination of this Agreement and shall remain in full force and effect notwithstanding such expiration or termination.
- 6.3 Any termination of this Agreement shall be without prejudice to any other rights (including any right of indemnity), remedy or other relief vested in either Party or to which either Party may otherwise be entitled pursuant to this Agreement.
- Article 7. **General**
- 7.1 Warranties by both parties are as follows:
- (p) Each Party to this Agreement warrants that it is not under any legal obligation that would prevent it from entering into this Agreement or that would prevent or hinder the carrying out of its terms, and that all internal authorisations required for the entering into of this Agreement have been or will be made, including any required authorisations by its Board of Directors, or otherwise.
- (q) The Parties agree that, except as may be expressly provided in this Agreement, neither has made or makes to the other any representations or warranties respecting the compensation that the other may expect to earn or receive pursuant to this agreement or otherwise.
- (r) Save and except as expressly set forth in this Article 7 of the Agreement, E64 expressly disclaims and excludes all express and implied representations and warranties, whether statutory or otherwise.
- 7.2 E64 and CLIENT are and shall be independent contractors and E64 is not and shall not be the agent or legal representative of CLIENT for any purpose whatsoever. Neither Party is granted any right or authority to assume or to create any obligation or responsibility, express or implied on behalf of or in the name of the other Party or to bind the other Party in any manner whatsoever.
- 7.3 The Parties hereby agree that they are not to hold themselves out as having any right or authority to assume or to create any obligation or responsibility on behalf of or in the name of the other party or to bind the other party in any manner whatsoever other than as may be expressly provided in this Agreement.
- 7.4 No Party may assign this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any attempt to assign this Agreement without such written consent shall be void.
- 7.5 It is agreed between the Parties that neither of the Parties shall be held responsible for damages caused by delay or failure to perform their respective undertakings under the terms of this Agreement when the delay or failure is due to fires, strikes, floods, acts of God, wars, riots, insurrections, lawful acts of public authorities, or delays or defaults caused by common carriers, that cannot reasonably be foreseen or provided against, including the actions of search engines, directories and related parties not under the direction or control of E64.
- 7.6 The delay or failure in performance excused by Article 7.5 of this Agreement shall only be excused for so long as the causes of such excusable delay or failure subsist. The Parties shall resume the performance of their respective undertakings forthwith upon cessation of the cause of such excusable delay or failure.
- 7.7 No covenant or condition of this Agreement may be waived except by the written consent of the waiving Party, and forbearance or indulgence by the waiving Party in any regard whatever shall not constitute a waiver of the covenant or condition to be performed by the other Party and until complete performance by the other Party of the covenant or condition, the waiving Party shall be entitled to invoke any remedy available under this Agreement or at law, despite the forbearance or indulgence.
- 7.8 If any part of this Agreement is found to be invalid by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and shall not affect the validity of the remainder, which remainder shall remain in full force. Such severance shall have effect only in the geographic area within which such court has jurisdiction.
- 7.9 All notices required to be forwarded pursuant to this Agreement shall be sent by email, registered mail, personal delivery or Any notice delivered by mail shall be deemed given when received. The date of receipt of any notice by facsimile shall be the date upon which the transmitter of the facsimile receives confirmation of the facsimile transmission.
- 7.10 The laws of the United Kingdom shall govern this Agreement.
- 7.11 In the event of arbitration and / or disputes,
- (s) All disputes arising from the execution of/or in connection with the Agreement shall be settled through friendly consultation between both parties. In case no settlement can be reached, the disputes shall be submitted for arbitration.
- (t) All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
- (u) The arbitration authority shall be a court of competent jurisdiction in England.
- (v) The arbitration award shall be final and binding on both parties.
- 7.12 This Agreement constitutes the entire agreement between the Parties in respect of its subject matter and supersedes all prior and contemporaneous agreements, understandings and discussions, whether oral or written, between the Parties. There are no warranties, representations or other agreements between the Parties in connection with its subject matter except as specifically set forth in this Agreement.
- 7.13 No change or modification of this Agreement shall be valid unless it is in writing and signed by each Party hereto.
- 7.14 This Agreement is binding on all successors, permitted assigns, heirs, executors and administrators of the Parties heret