

Terms and Conditions 1 January - 31 December 2018

General

The following Terms and Conditions apply to all goods and services supplied by DAVE WALSH CREATIVE. ('DWC').

The following Terms and Conditions apply to all services supplied provided by DAVE WALSH CREATIVE. ('DWC').

All work will be supplied as specified and agreed on the Purchase Order with the Client.

DWC will aim to provide Clients with a guide to external costs involved (e.g. print costs or web hosting) in the quote, but reserves the right to pass on any changes in external costs to the Client.

DWC will reserve the right to terminate the contract forthwith; where an invoice remains unpaid by the client for a period of one month after the date when the payment becomes due, DWC shall be entitled upon termination to cancel any contracts arranged by it between DWC and the Client(s).

Design, Artwork and Copyright

DAVE WALSH CREATIVE will retain the copyright of any material, created for the client by DAVE WALSH CREATIVE until payment of the final invoice. At this time it will become the property of the client. Design(s) or Artwork which has been supplied by the Client(s) and has been created by a third party shall remain the property of the originator and is subject to their copyright(s). DAVE WALSH CREATIVE will ensure design, layouts, colours, fonts and finished artwork will conform to any previous Branding Guidelines unless pre-agreed and supplied with the files or brief initially discussed.

DAVE WALSH CREATIVE will check third party files once supplied. DWC does not take responsibility for any third party errors, such as lithographic or digital print, pixellation, copyrighted photography or imagery contained within any previous artwork or design(s) used from clients' supplied files.

DAVE WALSH CREATIVE will not take responsibility for designs that have been 'implemented' or 'suggested' by the client(s) which has been supplied from internet search engines such as Google or similar companies.

DAVE WALSH CREATIVE will not take responsibility for any changes, alterations or any errors found from original artwork files that have been supplied to a third party by request. This includes Incompatible Computer Operating Systems, Incompatible Applications or Software, URLs and external HTML links and Incompatible Fonts. It is the client(s) responsibility to check any outputted files before print/production alongside the files that were originally signed off if the artwork files have used by a third party source.

Registration Charges

All third party costs arising from the registration of a domain name shall be met by the Client and are payable to DAVE WALSH CREATIVE. This is included in the standard invoice issued after approval for work to commence.

Search Engine Submission

DAVE WALSH CREATIVE is not responsible for the client's on-going website promotion. Should the client require the site to be promoted, a separate contract must be agreed. DAVE WALSH CREATIVE can make no guarantees about the success of any search engine promotion activity because this is controlled by out-sourced search engines.

Future Support

Completed websites are provided as a complete work. DAVE WALSH CREATIVE can normally provide future support upon request but there can be no guarantee of future support unless an ongoing support package is negotiated.

Computers, Software & Equipment

All work(s) carried out is designed and created on an Apple Computer platform using the most up-to-date software available. DWC is not responsible for supplying files, fonts or finished artwork to third parties which is not compatible with the fore-mentioned hardware/software (see also 'Data Storage, archiving and third party requests'). Prior notice of external suppliers' or third parties' intentions is strongly recommended. Re-issue of files, fonts and finished artwork is subject to an additional fee unless otherwise agreed with the Client. DWC shall not be liable for any delay in, or failure to, perform any of its obligations if the delay is caused by circumstances outside reasonable control of DWC, and for failure of any computer, software or other equipment used, or any of its suppliers. DWC shall be under no circumstances be liable for any consequential loss.

Privacy

All work(s) and projects, previous or in progress, carried out by DAVE WALSH CREATIVE discussed will remain confidential between DWC and the client unless otherwise specified by DWC or the Client.

Sub-contracting

DWC may sub-contract any parts of the work or services to be provided, but shall remain liable to the Client for the correct performance or its obligations.

Pricing

All quotations, tenders, estimates are based on current prices and are subject to amendment on or after acceptance to meet any rise or fall in the price of materials, components, external hosting and other items. DWC reserves the right to submit interim accounts from time to time where work is on-going in nature. DWC reserves the right to request a payment of up to 50% of the final cost of project to cover external costs and initial design work as stated in the quote. DWC reserves the right to await payment before embarking on any work.

Ownership of Goods

All work carried out by DWC will remain the property of DWC until full payment has been received. On any payment from the Client to DWC becoming overdue, DWC may at anytime (and without prejudice to any of its other right) recover or resell the goods supplied including removing a website from the server.

Payment

Except and to the extent otherwise stipulated in the relevant quotation or order, payment for goods and services shall be due on the terms stated on the invoice to the Client. DWC reserves the right to charge interest at the rate of 10% above the Lloyds Bank Minimum Lending Rate for the time being, on overdue accounts from the date which they become due until the date of payment.

Accounts that have not been settled within **7 days** of a final reminder may incur a late payment charge of 10% of the amount outstanding. You will also be charged statutory interest of 10% above the Bank of England base rate (fixed for the six month period within which date the invoices became overdue) pursuant to the late payment legislation.

Risk

Unless otherwise agreed or stated in at quotation stage, risk in respect of goods shall pass to the Client when the goods are despatched from DWC's premises or, agreed with external suppliers to supply goods on the terms as agreed with DAVE WALSH CREATIVE.

Warranty

DWC will rectify any defect, damaged items or incorrect information provided that:

- (i) the client notifies DWC of any claim within 30 days of any project completed
- (ii) DWC is allowed a reasonable opportunity to inspect the project or materials used so as to confirm that it is defective, damaged or incorrect.
- (iii) the goods have not been modified, mishandled or misused after delivery by DAVE WALSH CREATIVE or, agreed with external suppliers to supply goods on the terms as agreed with DAVE WALSH CREATIVE.

Indemnity

DWC shall not be required to display any matter which in its opinion which is or maybe of illegal or libellous nature or an infringement of the proprietary or other rights of any third party.

The Client acknowledges that projects are prepared by DWC is on the basis of information supplied by the Client.

Accordingly, the Client will indemnify DWC against:

- (a) any claims, cost and expenses arising out of any illegal or libellous or otherwise actionable matter or any infringement of copyright patent design or of any proprietary rights. The indemnity shall extend to any amounts paid on the advice of a solicitor appointed by DAVE WALSH CREATIVE in settlement of any claims.
- (b) any legal costs incurred by DWC in connection with any proceedings brought against it in the Trade Description Act 1968 in which either of the statutory defences are proved.

Data Storage, archiving and third party requests

All data is archived every month and is widely available to the Client(s) for free within 30 days of completion/payment. A fee of up to £50.00 may be charged for any Data, Artwork or Specific Files, whole, or part of a previous project requested after the 30 day period and/or requested by a third party organisation(s) such as design/print or web company, freelance operator(s) or sole trader(s) other than DWC. Any data requested can be supplied electronically via email, FTP or via an alternative online based storage ie: Dropbox/WeTransfer/Mailbigfile. DWC does not hold any responsibility for data or files, if, after initial request and payment wholly received, supplied to a third party or external source that will incur any incompatible software or other desired method(s). If this is the case, a 'legacy' or 'downsaving' fee of up to £150.00 may be suggested to fulfill the data request by supplying workable files to suit a third party's current system or compatible software.

Data is held on triplicate storage which only DWC has right of access to and is secured overnight and during long term absence (i.e.: holiday/short break) from the DWC premises. Should data be lost or corrupted, DWC will do everything possible to reinstate anything that is lost, corrupted or overwritten. However, DWC cannot be responsible for catastrophic loss of data or client's artwork, for example, but not limited to, the event of theft, fire, outdated or obsolete applications or mechanical failure or an act of nature (i.e.: earthquake, hurricane, severe storm)

Applicable Law

These conditions are to be construed and operated in accordance with English Law and any dispute arising under them or any order shall be settled in the Courts of England.

Notes

Should DAVE WALSH CREATIVE waive any of these terms on an individual basis, this shall not affect the validity of remaining clauses or commit DAVE WALSH CREATIVE to waive the same clause on any other occasion.

By agreeing to these terms and conditions your statutory rights are not affected. DAVE WALSH CREATIVE reserves the right to change or modify any of these terms or conditions at any time without prior notice. Should clarification of any of the above be required please notify DAVE WALSH CREATIVE on 07968 151749 or alternatively email: dave@davewalshcreative.co.uk