

## **TERMS AND CONDITIONS**

Councils awarding us with the contract to build and maintain their website are deemed to have accepted these Terms and Conditions that are supplied with the initial enquiry, quotation and your order. These Terms and Conditions are also displayed on our website including appendices and any subsequent revisions. We reserve the right to amend this document without prior consultation.

### **General**

Subject to copyright, the content of the website is owned by the Council. We are not responsible in any way whatsoever for the content of the website.

We act as a facilitator to the Council in that we manage the domain, the hosting and place content on the site under the instructions of the Council.

The work that we carry out is specified on our Website Updating Schedule which is available on our website and is subject to the costs shown therein. Any work that is not specified in the schedule is considered an extra and charged at the published rate or an agreed rate in special cases.

### **Design and Build**

Upon receipt of instructions from the Clerk to proceed we will register the chosen domain name and set-up the hosting for the site. If you already have a domain name this will need to be transferred and the process for this will be explained. If a site already exists on the domain we will discuss with the Council the options available with regard to moving the content to the new site. Please note that we do not take over third party websites.

The site will be built to your instructions and we will advise if any proposals are likely to prevent the site from working correctly, breach legislation or generate accessibility issues.

All material supplied for the website whether it be text, graphics or photographs must be owned by the Council or be used with the full permission of the copyright owner. The Council will be responsible for any breaches of copyright resultant from materials that they have supplied.

During the design and build process the Council will be invited, from time to time, to monitor the progress of the website at a private location. When the design phase is finished the Council will be asked to approve the work and once accepted the site will enter the Build Phase. The Council has the right to make two separate changes to the design within the fee.

We reserve the right to use the site for promotional purposes.

## Updating

The website is owned by the council, we act as an agent/webmaster carrying out the instructions of the council as requested by the Clerk. mh-p should not be considered “managers” however we may, from time to time, advise the council, in good faith, of situations where the website fails to meet known legislation.

All updating is carried out under our Updating Plans, a copy of which can be found on our website.

We expect documents for the website to be sent to us by email. The website should be treated as a Notice Board and documentation should be made available to the public within the prescribed timescales.

All documents for the website and instructions for amendments or additions must be sent by the Clerk to the email address [webmaster@mh-p.net](mailto:webmaster@mh-p.net). We do not accept files in any other format however agendas, with multiple attachments, can be sent in a ‘zipped’ form.

All documents must be sent to us in one of the following proprietary formats:

Microsoft Word (.doc or .docx),

Microsoft Excel (.xls) (Accounting spreadsheets only. We will not accept text documents where Excel has been used to create tables). Please use Word to create tables.

Adobe PDF. (.pdf)

We can also handle DTP files created by Adobe In-Design and Microsoft Powerpoint.

Additional charges will be made where documents are submitted (a) in formats other than those mentioned above, (b) on paper and (c) as photographs. We may also make a supplementary charge for the additional work involved in the re-processing of excessively large PDF files. (If you intend to make your own PDF files please use either, the latest version of Microsoft Office or Adobe Acrobat with the correct settings.

Agenda. Submit only one agenda per email and attach all appendices relating to the agenda. Any minutes that accompany and agenda will be assumed to be “draft” and attached to the agenda with the other appendices.

Minutes should be approved before being submitted unless you have subscribed to our Draft/Approved Service.

Councils applying for Foundation, Quality or Gold Status under the Local Council Award Scheme (LCAS) must advise us before submitting documents for inclusion on the website. These schemes require councils to maintain their websites to the highest level which involves us in extra work for which an annual surcharge applies.

Whilst we are happy to set-up social media accounts for our customers free of charge we are not responsible for the management or content of such sites.

## Makeover Agreement

Every five years we will, at your request, perform a free makeover to your website.

To your instructions we will change images, text content, colour scheme and update the technology to our latest specification. In some cases there may be a charge to update the core technology of the website and we will clarify this on request.

In order to qualify for the makeover councils must adopt the following procedure:

1. There must be no outstanding invoices on your account.
2. The terms of the makeover, detailed here, must be presented to the council in line with the requirements of the Accountability and Transparency Code of Practice.
3. Acceptance of the terms of the makeover must be minuted in line with the requirements of the Accountability and Transparency Code of Practice.
4. Copies of the Agenda and Minutes should be sent to us together with a letter signed by the Chairman and the Clerk accepting our terms. This is deemed to be the date that the makeover commences.
5. In the event that the council decides to terminate the makeover agreement the council agrees to pay a cancellation fee equivalent to £50 for each year, or part thereof, that the makeover agreement has to run.
6. This makeover agreement is supplementary to and does not affect your rights to terminate as described in **Your Right To Terminate**

## Accounting and Finance

We will open an account for the council at <http://www.mh-p.net> where the Clerk will be able to manage the Council's account, view the services we provide and check renewal dates etc.

All our invoices are sent out electronically as PDF attachments. Invoices can be paid by cheque or bank transfer. Cheques must be made payable to "mh-p", "mh-p internet" or "mh-p internet Limited" and should carry the invoice number(s) on the reverse. No other documentation is required.

All invoices are due and payable within 30 days of receipt. Invoices for Annual Updating, Hosting and Domain Name Renewal are submitted 30 days in advance and should be paid BEFORE the due date.

Once we accept the order we will invoice the Council for domain name registration and hosting as applicable. We do not take deposit payments but we do expect prompt payment (within 30 days) of all our invoices. Ordinarily the Council will be invoiced when the website is completed and signed-off by the Clerk on behalf of the Council.

We only accept instructions to proceed and acceptances from The Clerk, but on the Clerk's instruction we will design and build the website to the specification of a member of the Council.

We allow a period of 90 days from the receipt of the Council's purchase order or purchase letter/email to complete the design and build process. In the event that the Council has not provided all the materials necessary for us to complete the design phase we will present a design of our own and we reserve the right to invoice and be paid the full amount of the design phase.

We allow a further period of 90 days from the Council's acceptance of the Design and the start of the Build Phase to complete the website. In the event that the Council has not provided all the materials necessary for us to complete the site in that time period we reserve the right to invoice and be paid the full amount of the build phase together with costs of any extra pages or bolt on services.

When the site is approved by the Council and goes live the Council will be invoiced for the first year of updating and then annually on the same date thereafter. Councils who wish to split their annual updating fee into two payments to coincide with the receipt of their precept may elect to do so but we must be advised before the site is goes live.

The Council will be invoiced for its annual service charges at least 56 days before the renewal (due) date. Any account that has not been paid by the due date will be suspended which means that no updating will take place and other services will be turned off until such time as the outstanding account has been cleared.

In the event that we take our instructions from a member of the Council which is subsequently revealed as being opposed to the views of the Council we will only act upon the instructions of the Clerk and any changes required may be chargeable.

## Customer Service Level Commitment

Any customer who experiences any difficulty with the services that we provide may contact us by telephone or email and receive a response within two hours and a decision within three working days.

## Complaints Procedure

Having lodged a complaint and where this complaint involves a UK domain. If the customer is not satisfied with our response we escalate the matter to Nominet to arbitrate within 3 working day.

## Abuse eMail

If a customer is in receipt of abusive email traffic the emails should be forwarded, complete with header, to [abuse@mh-p.net](mailto:abuse@mh-p.net)

## Duration of Agreement

Our services are covered by a rolling agreement which automatically renews annually. Customers are invoiced 28 days prior to the end of the period and are expected to pay on or before the due date for the forthcoming year. We reserve the right to withdraw any and all of our services on the renewal date without notice. Customers forfeit all rights under this agreement until their account is in credit and any outstanding invoices cleared.

## Your Right To Terminate

If the Council wishes to terminate the agreement during the design and build period or at any point before the site goes live the Council will be liable for the full design and build cost including any extra pages and bolt-on services.

If, after the website has gone live, the Council raises an issue with the website or our services they must provide written details of their complaint which we will attempt to resolve or provide a reply within 3 days. If the Council seeks advice from a 3<sup>rd</sup> party we must be shown the advice and given an opportunity to comment. We cannot be held responsible for actions of 3<sup>rd</sup> parties which affect the workings of the website that are completely out of our control.

In the event that an amicable resolution is not forthcoming, the Council must give 30 day's notice in writing to terminate the agreement subject to the provisions detailed under **Duration of Agreement**

If the council wishes to move the website to another supplier the Council must give 30 day's notice and provide the IPSTAG for the new registrar. In the event of termination the Council will forfeit any monies paid in advance for domain name registration, website hosting and website updating and any outstanding balances must be cleared. We will provide, on request, a CD-Rom containing all the website content and files which the Council may use on its new website. The copying of content from a website created by ourselves for use on a new website is prohibited. (See **Copyright**)

At the end of the 30 day notice period or when any outstanding accounts have been cleared (whichever is the latter) we will transfer your domain to a registrar of your choice.

## **Our Right To Terminate**

In the event that we wish to terminate the agreement we will, under normal circumstances, give the Council 90 days notice and will continue to update the website until the end of the term unless the Council decides to terminate the agreement sooner. Councils will be refunded any balance outstanding on their updating agreement from the end of the notice period but forfeit any hosting period still remaining. Domain names will be transferred to a new registrant when we are notified of the new registrars IPSTAG.

In the unlikely event that the Council does not open a dialogue with us with a view to resolving any issues we reserve the right to reduce the notice of termination to 30 days. In such circumstances Councils will lose the right to claim any refunds whatsoever and will forfeit any hosting period still remaining. Domain names will be transferred to a new registrant when we are notified of the new registrars IPSTAG.

During the end-of-agreement period whilst we continue to update the website but we will not carry out any chargeable work.

## **Copyright**

Any and all materials supplied by the Council or its agents must be copyright cleared. If the Council does not own the material it must obtain clearance from the owner to use the material.

We will not be held responsible for any breaches of copyright from the use of material supplied by the Council or its agents.

As the hosting company, if we are informed that any material breaches copyright we will take down the website until the Council is able to resolve the issue.

Unless otherwise agreed in writing, we retain the copyright of the design whilst the Council retains copyright of the content.

It is possible that some content is delivered to the site using applications owned by ourselves or licensed to us by a third party and is therefore not transferable.

You may not use materials produced by us in any other form without our prior agreement. You will be in breach of our copyright if you attempt to move our site to another supplier.

In the event of termination and at our discretion, you may be given the opportunity to purchase the copyright on the design of the website for a fee to be determined.

# Terms and Conditions of Domain Name Registration

These conditions apply to all domain names administered by Nominet, and registrars are required to make their customers aware of them prior to registration of a .UK domain.

## 1. Definitions and interpretation

In these conditions, the following words have the following meanings:

**'cancel'** – Cancelling your **domain name** means that it will be deleted from the **register**, will therefore not work as part of a website or email, and may be released for re-registration on a first come, first served basis.

**'consumer'** – Any natural person who is acting for purposes which are not business related.

**'correct'** – This means that the contact information you or your **registrar** provide us with must be good enough to allow us to contact you quickly at any reasonable time, must not be deceptive, and must clearly identify you.

**'data protection legislation'** – The Data Protection Act 1998 implementing the Directive 95/46/EC on the protection of individuals with regard to the processing of Personal Data, the Privacy and Electronic Communication (EU Directive) Regulations 2003 and all current and subsequent applicable laws relating to the processing of personal data and privacy including where applicable the guidance and codes of practice issued by the Information Commissioner.

**'domain name'** – An internet domain name ending in *.uk* operated by us.

**'DRS policy and procedure'** – The policy and procedure of our dispute resolution service.

**'fees schedule'** – The fees that we charge for the services we provide, which is set out in full on our website.

**'good industry practice'** – The exercise of skill and diligence which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the provision of a domain name registry.

**'personal data'** – Has the meaning given in the **data protection legislation**.

**'proscribed'** – That the **domain name** in our sole discretion would on the face of it (i) tend to indicate, comprise or promote a serious sexual offence and (ii) that there is no legitimate use of the **domain name** which could be reasonably contemplated.

**'register'** – Our database of the domain names ending *.uk* that we administer.

**'registrar'** – An agent who acts on your behalf in the registration, renewal and other general administration of a **domain name** and to whom we allow access to our automated systems and the **register**.

**'rules'** – Our rules which explain which domain names can be registered in *.uk* and which cannot.

**'Searchable WHOIS'** – A service we provide under contract which provides the facility to search **WHOIS** data by registrant or for **domain names** where a particular string of characters appear in the **domain name**.

**'special status'** – Various special states your **domain name** may be in, such as suspended due to breach of these conditions, or blocked from transfer or deletion due to the operation of the DRS Policy and Procedure or legal dispute. This will normally mean that you will remain listed as the person who has registered the **domain name** but the **domain name** itself may not work.

'we', 'us', 'our' – Nominet UK (company number 3203859).

**'WHOIS'** – A free service we provide which allows members of the public to check whether a **domain name** exists and if so, provides further details such as the registrant and registrar, creation date, name servers and, subject to our WHOIS Address Opt Out Policy, a contact address.

'you', 'your' – The person who is entered into the **register** as the responsible person for the **domain name** and who will be listed on the **WHOIS**.

## **2. What we will do**

2.1 We will:

- 2.1.1 process your application to register or renew a **domain name** in accordance with the **rules**;
- 2.1.2 maintain overall ownership, control and responsibility for the **register**;
- 2.1.3 make changes to the **register** in accordance with your instructions to transfer or **cancel** your **domain name** or to change **registrar**; and
- 2.1.4 provide the technical operation of the name servers for the **.uk domain names** we operate and make entries in the appropriate zone file to delegate your **domain name** in accordance with **good industry practice**.

## **3. What you must do**

3.1 You must:

- 3.1.1 pay us directly or via your **registrar** the appropriate transaction fee in accordance with our **fees schedule** from time to time;
- 3.1.2 give and keep us notified of your **correct** name, postal address, phone and email contact information. This includes responding quickly to any request from us to confirm or correct the information on the **register**; and
- 3.1.3 notify us promptly about any legal proceedings which involve your **domain name**.

## **4. Security and registrars**

- 4.1 We do not have to take any action, or make any changes to the **register**, until we are satisfied that we have received a valid request from you.
- 4.2 We will be entitled to assume that any action requested using your identification code and password has been submitted by you or by someone authorised by you.
- 4.3 You must keep any user identification code, password or other piece of information used as part of our security procedures confidential. We have the right to disable any user identification code or password, at any time, if in our opinion our security procedures have been compromised.
- 4.4 Your **registrar** acts on your behalf in registering and maintaining the registration of your **domain name** so that any communication to or from your **registrar** is taken as being to or from you. You should always contact your **registrar** first with any request or question about your **domain name** or changes to it.

## **5. Non payment**

- 5.1 We do not have to start any process until we have received the correct fee for that process.
- 5.2 We may cancel your **domain name** without further notice if any debt relating to your **domain name** remains unpaid after the due date for payment.
- 5.3 We will not provide credit notes or refunds unless we have made a significant mistake or condition 11.5 applies.



## 6. Your promises and indemnity

- 6.1 By registering your **domain name** you promise that:
- 6.1.1 you (or your **registrar**) have the permission of any person whose **personal data** is to be held on the **register** in line with condition 8;
  - 6.1.2 any identity and contact information you (either yourself or through your **registrar**) send us is **correct** and kept up to date;
  - 6.1.3 by registering or using your **domain name** in any way, you will not infringe the intellectual property rights (for example, trade marks) of anyone else;
  - 6.1.4 the alphanumeric characters which constitute the **domain name** are not **proscribed**; and
  - 6.1.5 that you will not use the **domain name** for any unlawful purpose.
- 6.2 Unless you are a **consumer**, you will pay us any and all reasonable costs, claims and expenses (whether direct or indirect) arising out of any claim that you have broken any of the promises in condition 6.1.
- 6.3 Our right to rely on the promises in condition 6.1 and indemnity in condition 6.2 will continue to be available after the **domain name** has been registered and will not be affected by the cancellation or transfer of the **domain name**.

## 7. Nature of domain names and the register

- 7.1 A domain name is not an item of property and has no 'owner'. As a result:
- 7.1.1 we will not be bound by, or record on the **register**, any mortgage-related obligations;
  - 7.1.2 we own and keep all copyright and database rights in the **register**.

## 8. Personal data

- 8.1 We will make your **personal data** available in the following ways, but not release it for any other purpose to any other person.
- 8.2 We will:
- 8.2.1 include it on the **register**;
  - 8.2.2 include it on the **WHOIS** and **Searchable WHOIS**. You may be able to opt out of address publication in accordance with our WHOIS Address Opt Out policy;
  - 8.2.3 give your **personal data** to people with a legitimate reason for asking for it (based on the exemptions in the **data protection legislation**), including law enforcement agencies;
  - 8.2.4 give your **personal data** to your current or proposed **registrar** (or both); and
  - 8.2.5 use it as set out in the **DRS policy and procedure**.
- 8.3 You may write to us to ask for a copy of the **personal data** we hold about you or you can ask your **registrar**.
- 8.4 By registering a **domain name** with us you agree to us using your **personal data** as set out in these conditions.

## 9. The dispute resolution service

- 9.1 You agree to be bound by the **DRS policy and procedure**.

9.2 We (including in this case our directors, officers, staff of all types and any DRS expert) will not be liable to you or anyone else for anything done or not done in connection with any proceedings under the dispute resolution service, unless the act or lack of action is shown to have been in bad faith.

## 10. Cancelling or altering the domain name

10.1 We may **cancel** or put a **domain name** into a **special status** by notifying you if:

10.1.1 in our sole discretion we believe that you or your **registrar** have provided significantly inaccurate, not **correct**, unreliable or false contact details (including names), failed to keep your contact details up to date, or failed to give us those details at all;

10.1.2 in our sole discretion we believe the **domain name** is being used in a way that is likely to endanger any part of the domain name system, other internet users (including but not limited to the distribution of viruses and malware, phishing activity or facilitating distributed denial of service attacks), or our systems and internet connections; or

10.1.3 you have broken any of the conditions (including the **rules, DRS policy and procedure**) and (in the case of a matter which it is possible to put right and which is not covered by condition 5.2, 10.1 or 10.2) you do not put it right within 30 days of us notifying you.

10.2 We may (but do not have to) transfer, cancel, alter or amend the **domain name**, put it in a **special status** or prevent its renewal:

10.2.1 on your instructions;

10.2.2 if we reasonably believe that the changes to update the **register** or to correct any error, ambiguity or inaccuracy relating to the **domain name** registration (including any error in making the **domain name** available for registration or an error in a previous cancellation of the **domain name**) would make it more accurate;

10.2.3 if you withdraw your permission for us to process your **personal data** for any or all of the purposes described in condition 8;

10.2.4 to carry out the decision an expert has made under our dispute resolution service; or

10.2.5 if we receive a complete and valid court order which we or you (or both) must obey, or if not making the changes the court orders would be a contempt of court by us or you.

10.3 If you are an natural person, your **domain name** will be cancelled if you die and the person legally appointed to deal with your assets after you die does not transfer your **domain name** (either to themselves or someone else) within a year of your death (or the end of their appointment, whichever comes first).

10.4 If you are not an natural person, your **domain name** will be cancelled if you complete a liquidation or disbandment process or otherwise no longer exist, even if (where possible) you are later restored by an official or court order or decision.

## 11. Duration, renewal and transfer

11.1 We will register your **domain name** for a period between one and ten years in accordance with your **Registrar's** instructions. Registrations made directly with us may only be made for fixed terms of two years. You may renew your Domain Name at the end of its term in accordance with our renewals processes.

11.2 We may transfer our rights and responsibilities with respect to your **domain name** to anyone else in our sole discretion.

11.3 If you want to transfer your **domain name** to someone else, you must:

11.3.1 use our current published transfer process; and

- 11.3.2 make sure that the person taking over your **domain name** accepts these conditions in full.
- 11.4 If you do not transfer your **domain name** in accordance with our published transfer process there will be no valid transfer of your **domain name**, and no document or agreement attempting or claiming to transfer your **domain name** will have any effect.
- 11.5 If you are a **consumer**, you may have a right to cancel your **domain name** under the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 or similar laws amending or replacing it.

## 12. Exclusions and limitations of liability

- 12.1 Nothing in these conditions limits or excludes our liability for fraudulent misrepresentation or death or personal injury caused by our negligence.
- 12.2 By registering the **domain name**, we are not acknowledging that you have any rights in any words within the **domain name**.
- 12.3 We will not be liable for:
- 12.3.1 any loss of profit, revenue or other type of economic loss (whether direct or indirect);
- 12.3.2 loss of business or contracts;
- 12.3.3 loss of expected savings or goodwill; or
- 12.3.4 any losses which a court categorises as 'consequential', or 'indirect' arising out of or in connection with your registration of a **domain name** with us, including but not limited to:
- 12.3.4.1 any mistake or missing information in the **register**; and
- 12.3.4.2 loss of registration or use, or both (for whatever reason and whether temporary or otherwise), of the **domain name**.
- 12.4 Implied terms are, to the fullest extent permitted by law, excluded from these conditions.
- 12.5 Our total liability to you, whether under these conditions or otherwise (including liability for negligence), will be no more than £5,000.
- 12.6 If you are a **consumer**, conditions 12.3, 12.4 and 12.5 do not apply to you. Your statutory rights are not affected - for information contact your local authority Trading Standards Department or your Citizens Advice Bureau.
- 12.7 Conditions 8, 10.3, 10.4, 12 and 13 will continue to apply after your **domain name** registration has ended for any reason.

## 13. General

- 13.1 If a court rules that any of these conditions is invalid, unenforceable or void, the remaining conditions will continue in full force and effect.
- 13.2 A person who is not a party to these conditions shall have no rights to enforce any of these conditions.
- 13.3 We reserve the right to make reasonable changes to these conditions (including the **DRS policy and procedure** and **rules**) at any time.
- 13.4 Except as set out in the **DRS policy and procedure**, any notice in relation to your **domain name** will be considered to have been served if hand-delivered, or sent by prepaid post or by email, to you or your **registrar** at any postal or email address on the appropriate **register** entry, and will apply from the date it was delivered, or if not delivered the date it was sent or posted.

- 13.5 Any notice to us may be hand-delivered or sent by prepaid post to our registered office, or sent by email to [nominet@nominet.uk](mailto:nominet@nominet.uk).
- 13.6 These conditions, together with the **rules, DRS policy and procedure**, are the basis for the entire agreement between you and us for the **domain name**, and replace all previous contracts, understandings and representations about this **domain name**, whether spoken or written.
- 13.7 No failure or delay by us to exercise any right or remedy provided for in these conditions shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 13.8 Except as provided below, your **domain name** registration, these conditions, and any dispute or claim arising out of or in connection with it shall be governed by and construed with in accordance with the law of England and Wales. The courts of England and Wales shall have the exclusive jurisdiction to settle any dispute or claim arising. If you are a **consumer** in Scotland or Northern Ireland, we will accept your local law and courts.