

TERMS AND CONDITIONS

DEFINITIONS

In these Terms and Conditions, the following terms shall have the following meanings: “Charges”: the charges payable by the Client for the Services as specified in the Contract or, if not specified in the Contract, as set out in the Quotation / Invoice. “Client”: the company or other entity which has entered into a Contract with Howzit Digital for the provision of Services.

“Client Materials”: documentation, reference material and other material that the Client provides to howzitdigital.com in order for Howzit Digital to be able to provide, or otherwise in connection with, the Services.

“Expenses”: the third-party costs and expenses as are specified in a Contract, or which are reasonably and necessarily incurred by Howzit Digital in connection with the Services (including, without limitation, travel and subsistence expenses, and courier fees).

“Order”: an order from the Client for the provision of Services, which may be in such form and medium as Howzit Digital may from time to time accept.

“Price List”: the price list agreed by Howzit Digital and the Client for the Services or, if no such price list has been agreed, Howzit Digital then standard price list applies.

QUOTATIONS AND CONTRACTS

Unless stated otherwise each written quotation issued by Howzit Digital remains open for acceptance for 5 days.

The Client’s written approval or payment of the said deposit is acceptance of a quotation and constitutes an Order which is subject to acceptance by Howzit Digital in accordance with the terms and conditions.

By payment of the deposit or signed written agreement the Client acknowledges and agrees to these Terms and Conditions.

A contract between Howzit Digital and the Client for the provision of Services is formed on the acceptance by Howzit Digital of an Order (a “Contract”). Each Contract incorporates these Terms and Conditions, the Client Materials, and any document(s) expressly referred to herein or in the Order. A Contract may only be modified in writing by duly authorised representatives of Howzit Digital and the Client. Any standard or pre-printed terms and conditions contained on the Client’s purchase order,

invoice or other document shall have no effect and shall not apply to the Contract.

Each Contract constitutes the entire agreement between the parties with respect to the provision of Services, provided that nothing in this clause shall limit or exclude the liability of either party for fraud or fraudulent misrepresentation.

SERVICES

Subject to the following provisions of this clause, Howzit Digital undertakes that:

- (a) it will exercise reasonable skill, care and diligence in carrying out the Services; and
- (b) it will use all reasonable endeavours to meet any date(s) for completion of the Services specified in a Contract, provided that Howzit Digital shall not be liable for any delay caused by the Client (including, without limitation, any failure or delay by the Client to provide any Client Materials, or any errors or omissions in the Client Materials).

Unless another method is specified in a Contract, Howzit Digital will send all work to the Client by email at the Client's sole risk.

The Client shall ensure that all Client Materials:

- (a) are of a sufficient quality and integrity to enable Howzit Digital to provide the Services;
- (b) do not infringe any third party's copyright or other intellectual property rights;
- (c) are not defamatory or otherwise libellous; and
- (d) do not breach any other law, statute, ordinance or regulation.

The Client agrees to indemnify Howzit Digital against any loss, liability, damage, cost and expense (including reasonable legal fees and expenses) incurred by Howzit Digital in connection with claims made or brought against Howzit Digital by a third party alleging that the Client Materials, or the use thereof by Howzit Digital (i) infringe the copyright or other intellectual property rights of any person, or (ii) are defamatory or otherwise libellous.

On acceptance of the work by Howzit Digital and the deposit paid, consultation will take place in regard of the scheduling of the work. Once the work has been placed on Howzit Digital schedule It is the clients responsibility to ensure that all client materials which are required by Howzit Digital reaches Howzit Digital before the scheduled date. If there is any delay caused by the client by not supplying the required materials to Howzit Digital, Howzit Digital will have the right to invoice the client for time lost of scheduled work not performed due to clients delay.

In such a case the work may be rescheduled for a future date and the client may be invoiced again for such work completed by Howzit Digital.

As work commences Howzit Digital will require feedback from clients in regard of work acceptability and completion. Clients has two (2) working days (unless otherwise negotiated and agreed upon by Howzit Digital and the client) to inform Howzit Digital of changes required on work. If the two (2) working days elapse with no feedback from the client Howzit Digital will have the right to accept that the client is satisfied and that the work is completed, Howzit Digital will then issue the client with an invoice for the completed work, any changes to work after this invoice is issued will be for the cost of the client.

All Client Materials provided to Howzit Digital by the Client will be held or dealt with by Howzit Digital at the Client's risk, and the Client is solely responsible for ensuring that such Client Materials are insured against loss or damage while in Howzit Digital custody. Howzit Digital reserves the right to destroy or otherwise dispose of any Client Materials which have been in Howzit Digital custody for more than two months following completion of the Services to which they relate.

PRICES AND PAYMENT

Howzit Digital shall invoice the Client for a deposit of 50% of total quotation. This deposit is non-refundable. Amounts under R1500 to be paid in full.

Howzit Digital shall invoice the Client for the remainder of the Charges and any Expenses on completion of the Services, provided that, where Services take {or are reasonably expected to take} more than 30 days to complete, Howzit Digital shall be entitled to issue interim invoices.

Unless other payment terms are specified in a Contract, the Client shall pay each invoice issued by Howzit Digital on receipt of the invoice. If the Client requests that Howzit Digital invoices a third party in respect of any Services and such third party fails to pay the invoice by the due date, Howzit Digital is entitled to reissue the invoice to the Client and the Client shall pay such invoice in full on receipt.

For the avoidance of doubt, the Client is not entitled to delay payment of an invoice issued by Howzit Digital as a result of any failure or delay in payment by the Client's own client or customer, even where the Client has notified Howzit Digital that the Services are being provided for the benefit of such client or customer.

In the event of a bona fide dispute, the Client shall pay the disputed invoice (or, if applicable, the disputed part of the invoice) within 5 days of the dispute being resolved in Howzit Digital favour.

If the Client fails to pay an undisputed and overdue invoice within 30 days of receiving a written notice from Howzit Digital, then Howzit Digital reserves the right:

(a) to suspend or terminate some or all services to the client including the services of web hosting and any other outsourced service rendered to the client.

(b) After 40 days of non-payment of said invoice, the account will be handed over for debt collection, the client will be liable for all consequential debt collection and or legal fees

Howzit Digital will request payment in full before handover of any Client material. If Howzit Digital is working on the Clients server or platform Howzit Digital will complete 80% of the work before requesting final invoice. Offsetting of work / payments will be at Howzit Digital's discretion.

CONFIDENTIALITY

Howzit Digital will keep information and documentation entrusted to it confidential, apart from information which Howzit Digital knew prior to its engagement by the Client without any obligation of confidentiality, or information which enters the public domain other than through the fault of Howzit Digital, or where Howzit Digital is required to disclose such information as a result of a binding order from an authority of competent jurisdiction.

DATA PROTECTION

Howzit Digital will at all times adhere to the protection of personal information act 2013:

<http://www.justice.gov.za/inforeg/docs/InfoRegSA-POPIA-act2013-004.pdf>

The parties acknowledge that the provision of the Services may require processing of personal data on behalf of the Client by Howzit Digital.

Howzit Digital undertakes that in relation to any personal data that it processes on behalf of the Client it shall process such personal data only in accordance with the protection of personal information act 2013.

NON-SOLICITATION

The Client agrees that it will not, at any time prior to the date falling twelve (12) months after the date of completion of the Services, solicit, directly or indirectly, the services of any employee or former employee of Howzit Digital or of any subcontractor of Howzit Digital who has at any time been involved with the provision of Services.

CANCELLATION AND POSTPONEMENT

This agreement may be cancelled at any time by either party giving a minimum of 30 (thirty) days written notice, however where hosting is applicable the following will apply:

- (a) Hosting periods will be a minimum of 12 (twelve) months
- (b) If the client cancels within a period of 6 (six) months of commencement of this agreement, the client will be held liable for the full balance of the remainder of the agreement.
- (c) If the client cancels after a period of 6 (six) months of commencement of this agreement, the client will be held liable for 50% (fifty percent) of the balance of the remainder of the agreement.

If the Client notifies Howzit Digital that it wishes, for any reason, to postpone or cancel any Services, Howzit Digital may (at its discretion) agree to such postponement or cancellation, subject always to the Client paying all Charges which have accrued and all Expenses that have been incurred up to the date of cancellation or postponement (as applicable).

Howzit Digital shall be entitled to terminate a Contract with immediate effect and without liability if it reasonably believes that the Client is or may be in breach of any clause within the Terms and Conditions.

LIABILITY

Howzit Digital shall not be liable, whether in negligence, for breach of contract, misrepresentation or otherwise, for any indirect or consequential loss, damage, expense or cost of any kind suffered or incurred by the Client.

DISPUTE RESOLUTION

Howzit Digital and the Client agree that any disagreements about the quality of the Services shall be referred to an arbitrator to be agreed and appointed by the parties or, if the parties fail to agree, to approach the courts of the Republic of South Africa.

FORCE MAJEURE

In the event of natural or unnatural disasters (which shall include strike, fire, industrial dispute, civil commotion, natural disaster, acts of war and any other situation which can be shown to have materially affected Howzit Digital ability to undertake and complete the Services as agreed), Howzit Digital shall notify the Client as soon as it becomes aware of such event, indicating the circumstances. An event of natural or unnatural disaster shall entitle either Howzit Digital or the Client to terminate the Contract with immediate effect, subject to the Client paying Howzit Digital for all Services completed and Expenses incurred up to the date of termination. Howzit Digital shall not be liable for the consequences of non-performance

or any delay in completion or delivery of Services as a result of natural or unnatural disasters.

ASSIGNMENT AND SUBCONTRACTING

Neither party shall assign its rights or obligations under a Contract without the prior written consent of the other party.

Howzit Digital is entitled to subcontract some or all of the Services, provided that Howzit Digital shall remain solely responsible for the acts and omissions of its subcontractors.

WAIVER

The waiver by either party of a breach or default of any of the provisions of a Contract by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

JURISDICTION

Each Contract is governed by the Law of the Republic of South Africa and Howzit Digital and the Client irrevocably submit to the nonexclusive jurisdiction of the Law of the Republic of South Africa and its Courts, provided that nothing in this clause shall prevent Howzit Digital from taking legal action against the Client in any jurisdiction in which the Client carries on business.

REVISIONS

We provide two revisions, at no additional cost. Revisions beyond this limit or outside the agreed-upon project scope will be subject to additional charges, which will be estimated and communicated to the client for approval. All revision requests must be made in writing, and we reserve the right to accept or reject such requests at our discretion. Timely cooperation in the revision process is expected from the client, and final approval will mark the project's completion.

MODIFICATION OF TERMS

Howzit Digital reserves the right to modify these Terms at any time. Any changes will be posted on our website, and it is your responsibility to review these terms regularly (link to the Terms and Conditions will be on the footer "bottom" of the Howzit Digital website "howzitdigital.com").

INTELLECTUAL PROPERTY

You acknowledge that any intellectual property created during the course of our services, including but not limited to graphics, content, and

marketing strategies, shall remain the property of Howzit Digital until full payment is received.

HOSTING

Hosting is NOT a maintenance package and we do NOT take responsibility if the site breaks, goes down or is hacked. Please refer to the packages below to help secure your website.

WEBSITE MAINTENANCE / PACKAGES

Howzit Digital offers three types of packages:

Option 1:

Basic Maintenance (generally a service that takes place every 3 months) to ensure all themes, plugins and website systems are running optimally and updated accordingly. Please note that Howzit Digital accepts no liability if a site were to break / go down due to external human hacking, bot hacking and any other cause to make the website malfunction. Howzit Digital will further take no liability if anyone else out side of the Howzit Digital team has access to the website.

The basic maintenance package is to insure longevity and functionality of the website.

Option 2:

Monthly Maintenance

The purpose of this package is to act like a form of insurance for your website. Due to most websites being hosted on a public domain it is acceptable of hacking and third-party software failures. Howzit Digital will sort out any achievable issues to get the clients website up and running. Howzit Digital will take no liability if anyone else out side of the Howzit Digital team has access to the website. Furthermore, it is imperative to inform Howzit Digital promptly if any website issues arise, with a time frame of 4 days. Failure to do so will render Howzit Digital free from any liability.

Option 3:

Security package

The purpose of this package is to secure the clients website from any verbalities. Howzit Digital will ensure that good security practices are preformed and implemented to limit hacking from humans and bots. Howzit Digital will take no liability if anyone else out side of the Howzit Digital team has access to the website.

MARKETING

NB: Please note that we have a 30 day notice period for all marketing services.

ROI (return on investments) can never be guaranteed.

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Please feel free to contact Howzit Digital at info@howzitdigital.com if you have any concerns or questions.