



## **Indratek Technologies Website Design, Programming, Hosting and Maintenance License Agreement. Terms and Conditions**

*This World Wide Web Site, Construction and Maintenance Licence Agreement "the Agreement" is entered into between Indratek Technologies Ltd "Indratek Technologies" and "Customer's Name".*

Please read these Terms and Conditions ("Terms", "Terms and Conditions") carefully before contracting any service with Indratek Technologies - [www.indratektechnologies.co.uk](http://www.indratektechnologies.co.uk) (the "service", "we", "us", "our" and "associates" ) operated by Indratek Technologies. The customer access to and use of the Service is conditioned on the customer's acceptance of and compliance with these Terms. These Terms apply to all visitors, users and others who access or use the Service provided by Indratek Technologies. By accessing or using the Service, The customer agrees to be bound by these Terms.

Regarding the main definitions for these terms of service: "**Customer**" shall mean any individual and or corporate body limited and or unlimited and or partnership and or joint venture and or other association of individuals with or without corporate bodies to whom Indratek Technologies shall supply services. "**Content**" shall mean any text, graphics, photographs, video footage, sound tracks or other visual, aural, or textual means of communication, either existing or specifically created for inclusion in Customer's World Wide Web Site. The "**Technology**" shall mean any and all software, methodology, computer programs, writings, know-how, designs, techniques, or other information, either existing or specifically created for inclusion in Customer's World Wide Web Site. "**Termination**" shall mean the cessation of the products and services supplied by Indratek Technologies to the Customer. Unless otherwise specified, the singular includes the plural and vice versa.

### **1. Recitals**

The Customer is familiar with the Internet and understands the nature of the Internet and the parties acknowledge and agree that Indratek Technologies is not responsible for the Internet or World Wide Web Sites or whether it should continue to exist in its present form or whether or not a government or governmental agency, either foreign or domestic, will control, regulate or disband the Internet. Indratek Technologies has delivered to the Customer an estimate or a proposal (the "Estimate / proposal") or in the case of smaller projects, a quotation, setting forth details, specifications, payment schedule and time-table for the Customer's Internet World Wide Web Site project. The Estimate / proposal has been accepted and approved by Customer. A copy of the Estimate / proposal containing the description of the Project is available on request, if not attached. The customer desires to engage Indratek Technologies to implement the Estimate / proposal in accordance with the terms and conditions set forth in this Agreement.



## **2 .UK Domains**

All our .uk domain names are registered with Nominet UK and are subject to their terms and conditions available here [www.nominet.uk/go/terms](http://www.nominet.uk/go/terms)

## **3. Delivery**

Indratek Technologies shall use best endeavours to deliver the Project to Customer in a form ready for use by Customer and its designated end-users (which designated end-users are described in the Estimate / proposal), unless otherwise agreed by Customer. The delivery of the Project shall be substantially in accordance with the time schedule set forth in the Estimate/ proposal, except as otherwise agreed by Customer.

## **4. Ownership**

Upon completion of the project, and payment in accordance with this Agreement, Customer shall own the World Wide Web Site, subject to the following terms and conditions:

- (a) All original artwork, content, etc. provided to Indratek Technologies by Customer for inclusion in the World Wide Web Site shall remain the exclusive property of the Customer, regardless of whether or not such content was actually used in the World Wide Web Site.
- (b) All photography, graphics and design created by Indratek Technologies in the creation of Customer's World Wide Web Site shall on payment in full, transfer to be the property of the customer.
- (c) Customer shall be granted a royalty-free license to all new content, whether produced by Indratek Technologies or by others (collectively the "originators") created for use in Customer's World Wide Web Site.
- (d) Source code ownership: Upon completion of the project and when full payment has been received by Indratek Technologies the "client side" source code will become the property of the customer. All "server side" source code utilised by and developed for the project shall remain the property of Indratek Technologies Ltd. Any server side source code bespoke to the project shall be made available to the customer in an unencrypted form at the Customer's request. Any non-bespoke "server side" source code utilised or developed shall be made available to the customer in an encrypted format at the Customer's request. The encryption method used to encrypt the source code will be chosen at Indratek Technologies discretion.
- (e) Customer shall grant express permission for Indratek Technologies to place a small credit or company logo on the Customer Website.

## **5. Payments**

The Customer shall pay Indratek Technologies, in return for the products and services, as indicated in the Estimate / proposal, in sterling pound or US Dollar, set forth in the Estimate / proposal.



Payment shall be in accordance with the payment schedule set out in the Estimate / proposal. Indratek Technologies will exercise their statutory right to charge 11% interest under the Late Payment of Commercial Debt (Interest) Act 1988 if the customer does not pay according to the agreed credit terms, which are agreed from date of invoice (Invoices indicated as “Deposit” or “Interim” payments are to be settled prior to commencement or continuation of any kind of work).

The customer must pay the fees (together with VAT and any applicable taxes) specified in our Costs Proposal current when the customer order or renew any Services. Payments may be in 7, 15, 30, 60, 90 day terms depending on contract agreement. The customer will be giving the option to pay by credit card, PayPal or cheque.

- (a) **Credit Cards:** We accept credit cards on-line using the Sky pay Secure System, and accept Delta, Visa, MasterCard and American Express. These will be processed immediately on-line. At no stage do Indratek technologies see the customer credit card details, as the information is processed directly through Skypat.
- (b) **PayPal:** We accept payments by using PayPal platform encrypted with 128-bit Secure Socket Layer (SSL) architecture, and are signed using Thawte digital certificates.
- (c) **Cheques:** We also accept cheques (drawn in UK Sterling Only) for non-cardholders. We will need approximately 5 working days to process cheque payments before registering domains, or setting up other Internet services. All of our online transactions are processed on Secure Trading servers who are one of the world's leading Internet Merchant Banks.

The “deposits” or “prepayments” for the projects contracted with Indratek technologies represent a 50% of the final invoice in mostly of the projects contracted. Under certain circumstances, Indratek’s technologies sales representatives will have in account each customer’s project specifications and deadlines for negotiate pre-payments and deposits adapted to each client’s particular situation. However payments must be made:

- i. Within terms specified on our invoice if we agree to charge by invoice; or
- ii. By any other method that we specifically agree in the Contract Schedule or Costs Proposal.

Other clarifications regarding payments might include that:

- (a) Payment must be made without deduction or set-off and time for payment shall be of the essence.
- (b) All fees are non refundable unless otherwise stated.
- (c) Other ways of payment might be accepted under certain specifications regarding the customer’s project circumstances. These exceptions might be negotiated and discussed between Indratek technologies’ Sales representative and the customer, and agreed by both parties before taking any action or making any payment to Indratek Technologies or associates.



## **6. Non-Cancellation of Orders**

Customer recognises and acknowledges that each component and design stage, as described in the Estimate / proposal, represents an integral part of the project, and that any change or alteration may significantly impair the ability of Indratek Technologies to perform its obligations hereunder. Customer shall not cancel any portion of the project without securing the written permission of Indratek Technologies. In the event that Customer and Indratek Technologies desire to amend or modify any portion of the project, such amendment or modification shall be documented, and said documentation shall only become effective upon the written confirmation by an authorised representative of Indratek Technologies and Customer.

## **7. Limited Warranty**

Indratek Technologies Ltd warrants that the Service will not be substantially different from any written description of the Service previously supplied by Indratek Technologies to the Customer.

The Customer is responsible for assessing its own commercial needs, how the Service relates to the Customer and how the Customer should use the Service. The Customer warrants that it is familiar with services of this type and that it understands the level of service to be provided and the implications for the Customer's own business of the choices which the Customer made in completing the Order Form. Indratek Technologies Ltd makes no warranty as to the value of the Service in the Customer's business or the results to be obtained from the use of the Services.

The Customer is solely responsible for the use of any information or other material obtained through the Service. Indratek Technologies specifically excludes any responsibility for the accuracy or quality of information obtained through the Service, or that any other material obtained through the Service may be used in any way by the Customer without infringing the rights of any third parties. The Customer further acknowledges that these matters are outside the control of Indratek Technologies Ltd.

## **8. License**

Indratek Technologies hereby grants unto Customer a license to the Customer's World Wide Web Site. This license is non exclusive with respect to software, formatting, commands and other technology utilised by Indratek Technologies in creating World Wide Web Sites for its customers, non exclusive with respect to content provided by Indratek Technologies in creating World Wide Web Sites for its customers, and an exclusive license to the content which is proprietary to Customer. This license is granted with an understanding that Indratek Technologies has the right to relicense to Customer on an unrestricted basis any software used by it for this Project.



Customer agrees and acknowledges that it does not have the right or authority to relicense, distribute or use any of the technology, software or techniques licensed hereunder to any other entity or use such software or technology in any other application or for other use or purposes other than the Project. Further, the license is applicable only to the use of the projects in connection with servers included in the Project or approved by Indratek Technologies Ltd.

## **9. Warranties**

For a period of 14 days from the fulfilment of the contract (the “Warranty Period”), Indratek Technologies shall correct any and all errors or system incompatibilities within the World Wide Web Site that were either created or introduced by Indratek Technologies and were not discovered during the testing process. Indratek Technologies further warrants that at the time of fulfilment of the contract, an Internet user will be able to access the Customer's World Wide Web Site pursuant to the specifications of the Estimate / proposal but Indratek Technologies makes no warranty with respect to the continuation of the Internet or the accessibility of the World Wide Web Site over time. Indratek Technologies makes no other warranties, express or implied, nor warranties as to the merchantability or fitness for a particular purpose of its software, the project or estimate / proposal. Indratek Technologies shall pass through to Customer all manufacturer or vendor warranties relating to hardware or software included in the project as to the extent such warranties are provided to site developer.

## **10. Limitation of Liability**

The liability of Indratek Technologies for any error made in performance of the obligations under the Agreement will in no event exceed the fees for such services paid to Indratek Technologies by Customer as set forth in the Agreement. In no event shall Indratek Technologies be liable to Customer or to any end-user for any damages including, without limitation, consequential damages, lost profits or any special damages, whether incurred by Customer or end-user. Indratek technologies total aggregate liability to customers for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by customer in respect of the Services which are the subject of any such claim and against Indratek Technologies Ltd.

The following provisions in this clause set out Indratek Technologies Ltd's entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Customer in respect of:

- (a) A breach of Indratek Technologies Ltd's contractual obligations;
- (b) A tortuous act or omission for which Indratek Technologies Ltd is liable;
- (c) an action arising out of a misrepresentation by or on behalf of Indratek Technologies Ltd; arising in connection with the performance or contemplated performance of this Agreement or out of an act done or omission made as consequence of the entry into by Indratek Technologies Ltd of this Agreement.



The Customer acknowledges that in circumstances where a fatal server failure could cause pure economic loss, loss of profit, loss of business or like loss then Indratek Technologies advise a second backup server is installed. Indratek Technologies Ltd shall in no circumstances be liable to the Customer for any pure economic loss, loss of profit, loss of business or like loss.

Indratek Technologies Ltd shall in no circumstances (whether before or after termination of this Agreement) be liable to the Customer for any loss of or corruption to data or programs held or used by or on behalf of the Customer.

Notwithstanding anything to the contrary herein contained Indratek Technologies Ltd's liability to the Customer for:

- a) Death or personal injury resulting from the negligence of Indratek Technologies Ltd, its employees, agents or sub-contractors.
- b) damage suffered by the Customer as a result of a breach by Indratek Technologies Ltd of the condition as to title or the warranty as to quiet possession implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.
- c) Damage for which Indratek Technologies Ltd is liable to the Customer under Part I of the Consumer Protection Act 1987.

## **11. Subcontractors**

Indratek Technologies may, from time-to-time, engage subcontractors to provide specific services. Indratek Technologies will be totally responsible for interfacing with such subcontractors and Customer shall not directly contact Indratek Technologies subcontractors without Indratek Technologies' specific written permission. Indratek Technologies will be responsible for obtaining the appropriate confidentiality and nondisclosure agreements from such subcontractors. Indratek Technologies will request from subcontractors representations and warranties with respect to any proprietary information, technology, software and content and indemnification from any patent, copyright or trademark infringement.

## **12. Confidentiality and Non-Disclosure**

Customer agrees that neither Customer, its agents nor its employees shall in any manner, use, make available, make known, divulge or communicate any proprietary information with respect to the Estimate / proposal and Project and the technology utilised by Indratek Technologies for this Agreement or the pricing of the Estimate / proposal without the expressed written permission of Indratek Technologies. Customer agrees to take all appropriate action to protect the confidentiality and proprietary information included in the Estimate / proposal and Project, including appropriate instructions and agreements with employees, agents and consultants. Title to all proprietary rights in the Estimate / proposal and Project shall remain with Indratek Technologies subject to the license contained herein.



### **13. Indratek Technologies Not Responsible:**

Customer acknowledges and agrees that Indratek Technologies is not responsible for, and does not control, the Internet or any information contained thereon (other than the content on Customer's pages included in the Project, the accuracy and reliability of which shall be the sole responsibility of Customer).

- i. Access to the Internet is not provided by Indratek Technologies but by the Customer and their chosen Internet Service provider (ISP).
- ii. Internet connection problems and related issues are to be the responsibility of the ISP.

Indratek Technologies does not warrant, and does not assume responsibility for, any consequences suffered by any person as a result of Internet access including, without limitation, those suffered by Customer and end-users as a result of accessing such Internet information and content, such as the possibility of contracting computer viruses, accessing information with offensive or inappropriate content, etc.

Indratek Technologies assumes, and shall be responsible for, no damages suffered by any person as a result of obtaining Internet access in connection with the Project or otherwise, including risks associated with the conduct of on-line commerce.

### **14. The customer obligations and representations**

The customer obligations and representations accomplish that:

- a) The customer represents to have power and authority to enter into this agreement.
- b) The customer must comply with our reasonable instructions and requests concerning the Services.
- c) The customer must provide us with all of the customer up to date contact details (including email addresses) and promptly notify us of any changes. We rely on this information for various reasons including the transmission of renewal notices and other important information concerning the Services.
- d) The customer is responsible for all persons who use the customer's password or security phrase to access the Services, whether authorised or not, unless acting on our behalf.
- e) The customer warrants that the customer use of the Services will not infringe any third party intellectual property or other rights.
- f) There is a risk that Data generated, stored, transmitted or used via or in connection with the Services may be irretrievably damaged or lost if there is a fault or on suspension or termination. It is the customer's responsibility to frequently back-up all such Data that the customer wish to save (excluding any Services that specifically include a back-up capability).



- g) The Customer acknowledges and agrees that all users (including Customer and its end-users) must exercise their own due diligence before relying on any such information available on the Internet, and must determine that they have all necessary rights to copy, publish or otherwise distribute any such information available on the Internet under applicable copyright laws. Customer acknowledges and consents to the foregoing, and shall obtain the acknowledgement and consent to the foregoing of all users which obtain access to the Internet through the Project. Indratek Technologies shall be an express third-party beneficiary of such acknowledgment and consent.

## **15. Security**

The customer must:

- i. keep The customer's username, password and security phrase secure (and we may change these at any time for good reason);
- ii. if requested use The customer's password or security phrase when giving instructions (and we are authorised to comply with instructions containing The customer's password or security phrase);
- iii. take reasonable steps in respect of matters in The customer's control to minimise any risk of security breaches in connection with the Services e.g. by promptly implementing security patches;
- iv. notify us of any security breaches; and
- v. Comply with our security checks.

## **16. Historical Archive and Backup**

While Indratek Technologies Ltd backs up its server computers as a regular part of its internal systems administration, Indratek Technologies Ltd does not guarantee any storage or backup of Customer data.

## **17. Termination**

The obligations and liabilities of the parties incurred prior to the termination date shall survive the termination of this agreement for all purposes. These Terms of Service are effective unless and until terminated by either the customer or us. The customer may terminate these Terms of Service at any time by notifying us that The customer no longer wish to use our Services, or when The customer cease using them. If in our sole judgment The customer fail, or we suspect that The customer have failed, to comply with any term or provision of these Terms of Service, we also may terminate this agreement at any time without notice and The customer will remain liable for all amounts due up to and including the date of termination; and/or accordingly may deny The customer access to our Services (or any part thereof).





If any Indratek Technologies Ltd invoice remains unpaid fourteen (14) days after its due date, Indratek Technologies Ltd may without further notification or prejudice to any other remedy, suspend or disable the Service or, at its option, terminate this Agreement. Termination for non-payment shall not relieve the Customer of its responsibilities under this Agreement, including the responsibility to pay all fees up to the date of termination.

Indratek Technologies Ltd may terminate this Agreement at any time if the Customer materially breaches this Agreement and in the case of a breach capable of remedy fails to remedy the breach within fourteen (14) days of notice from Indratek Technologies Ltd requiring the breach to be remedied.

## **18. General Provisions and terms**

### *Sole Agreement*

If any acknowledgment, provisions, term or condition in any Customer purchase order, voucher or other memorandum is in any way inconsistent with, or adds to, the provisions of the Agreement, such provisions shall not affect the interpretation or terms of this Agreement, and any such inconsistent or additional provisions, terms and conditions are agreed by the parties to be null and void. No modifications of this Agreement or waiver of any of its terms will be effective unless set forth in a written document signed by authorised agents of Customer and Indratek Technologies.

### *Severability*

If any term of this Agreement is held to be invalid, the remainder of this Agreement will remain in force. If any term of this Agreement shall be invalid, illegal or unenforceable, in whole or in part, the validity of any of the other terms of this Agreement shall not be affected thereby in any way so long as the general intent of this Agreement can still be carried out absent the invalid, illegal or unenforceable provision.

### *Notices*

All notices and requests in connection with this Agreement shall be in writing and may be given by personal delivery or registered mail with return receipt, telegram or other customary means of written communication. The effect date of any notice or request shall designate by notice to the other. The effective date of any notice or request shall be five (5) days from the date which it is sent by the party so sending the notice or immediately upon personal delivery.

### *Assignment*

The Customer may not sell, transfer or assign its rights or obligations under this Agreement without Indratek Technologies written consent. No such assignment, even if consented to, shall relieve the Customer of its obligations under this Agreement prior to the date of the assignment.



### *Whole Agreement*

This Agreement represents the complete agreement and understanding of the parties as to its subject matter, and supersedes any other agreement or understanding, written or oral. If there is any conflict between the Estimate / proposal Documentation and the Indratek Technologies Ltd Construction Agreement, the Construction Agreement (This document) shall take precedence. This Agreement may be modified only in writing signed by an authorised representative of the Customer and an authorised representative of Indratek Technologies Ltd.

### *Governing Law*

These Terms shall be governed and construed in accordance with the laws of United Kingdom, without regard to its conflict of law provisions, and all questions regarding the validity, intention or meaning of this Agreement or any modifications of it will be construed and resolved under the laws and solely in the courts. Each party hereto hereby consents to the personal jurisdiction of the courts for such purposes. Survival all obligations of the parties with respect to confidentiality of information shall survive the termination of this Agreement, regardless of the reason for such termination.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service, and supersede and replace any prior agreements we might have between us regarding the Service.

### *Capacity*

Both parties acknowledge that they have read and understood this Agreement and agree to be bound by its terms.

***Signed on behalf of Indratek Technologies Ltd and associates***