

Repairer Online Terms & Conditions Edition 260111

1. Interpretation

In these Terms and Conditions ("Conditions") unless the context otherwise requires.

1.1 The following words and expressions shall have the following meanings:

"Company"- Viccari Wheele Limited

"Company's Website"- www.repaireronline.co.uk

"Client"- the party with whom the Company has contracted to supply the Website Service.

"Client Website" - the website specified in Condition 3.1

"Contract"- the contract(s) between the Company and the Client for the supply of the Website Service.

"Standard template website"- the each of the versions of the Company's standard template website as shown on the Company's Website on the date of the Client's order (if applicable) or otherwise the date of the Contract.

"Further Options" the further services and facilities shown in the Order Forms.

"Order Forms" – the Company's order forms for each of the versions of the standard template website as are available on the Company's Website.

"Customising Options"- the variations to the standard template website shown in the Company's Website and in the Question Sheet.

"Question Sheet" - the question sheet included in the Order Forms.

"Website Service" - the provision of the services set out in Condition 3.1.

"Services"- the Website Service and/or Additional Services (as defined in Condition 3.6)

"Start Date"- the date on which the Company reasonably notifies the Client the Website Service is fully operational.

"Term" - the period for the supply of the Service specified in the Contract and if none is specified it will be an initial period of one year from the Start Date which will then continue during each year following unless ended either by the Company or the Client giving the other four weeks written notice before the beginning of such year.

"List Prices"- the Company's standard prices for the Website Service and for bespoke services (including and the times for payment thereof) from time to time in force and set out on the Company's Website.

"Business Day"- any day except a Saturday or Sunday or a statutory or public holiday in England.

"Business Hours"- between 9.00am and 5.00pm on Business Days.

"Intellectual Property Rights"- any rights conferred anywhere in the world in respect of patents, copyright, designs, trade marks or names, database rights and all other rights which may subsist anywhere in the world in respect of confidential information and inventions including rights to apply for any of the foregoing.

1.2 words denoting the singular shall include the plural and vice versa; words denoting any gender shall include any other and "person" or "party" means and includes any legal entity.

2. Term

The Company shall supply the Website Service for the Client during the Term.

3. The Website Service

3.1 The Company shall:

(a) provide for use by the Company during the continuance of the Contract the Client Website being a website constructed on the basis of the version of the standard template website specified in the Contract and incorporating:

(i) the Customising Options selected by the Company and specified in the Question List referred to in Condition 4.1

(ii) any Further Options included in the Contract.

(b) endeavour to have the Client Website fully operational within 28 days of acceptance of the Client's order (if applicable) or otherwise the date of the Contract.

(c) host the Client Website on its servers.

3.2 Subject as provided in the Contract (including these Conditions) the Website Service will be available to the Client at all times.

3.3 The Company shall support the Website Service by providing a telephone support line for reasonable use by the Client to resolve Faults (as defined in Condition 3.4) during Business Hours.

3.4 In the event of any defect in or malfunction of the Services ("Fault") the Company shall use reasonable endeavours to rectify the Fault within 24 Business Hours of same being reported to it by the Client and the obligations of the Company under this Condition 3.4 shall be the sole and exclusive remedy of the Client in the event of a Fault.

3.5 The Company may suspend the Services to incorporate agreed changes to the Client Website or to carry out repairs and maintenance to its equipment, servers, systems and services and to the Clients Website ("Works") in which event the Company where practicable shall give the Client at least 24 hours notice of its intention to carry out Works.

3.6 The Company shall also supply any additional services the Company and the Client may agree ("Additional Services") which shall be deemed to include any additional work the Company carries out in performing its obligations under the Contract as a result of any breach or default of the Client.

4. Client's Obligations

The Client shall:

4.1 let the Company know its requirements for Customising Options in the Question Sheet supplied with the Order or otherwise incorporated in the Contract.

4.2 provide the domain name to be used in relation to the Client Website and prior to the Start Date instruct the party hosting such domain name to change the "a" record relating thereto to such IP address the Company shall specify.

4.3 supply such information and assistance the Company may reasonably require from time to time to supply the Services.

4.4 pay the Company the fees and expenses specified in Condition 5 for providing the Services on the dates therein specified and if requested by the Company) from time to time pay some or all of said fees and expenses by direct debit or bankers standing order and to such party the Company may from time to time nominate.

4.5 ensure that any data, other information or materials supplied by or for the Client do not infringe the Intellectual Property Rights or any other rights of any other person or include defamatory or illegal material or any viruses or worms or other harmful elements.

5. Fees and Expenses.

5.1 The Client shall pay the Company:

(a) for providing the Website Service the fees specified in the Contract at the times specified therein but otherwise the Company's List Prices in force at the time.

(b) for Additional Services such fees and expenses the parties may agree otherwise (if applicable) the Company's List Prices in force at the time or (if not) at the Hourly Rate plus any costs and expenses properly incurred by the Company in relation thereto which shall be paid at the times agreed by the parties or otherwise within 14 days of the Company's Invoice. "Hourly Rate" means £85 per person per hour plus VAT.

5.2 Time is of the essence for all payments to be made under this Agreement which are exclusive of any applicable Value Added Tax (which is payable additionally at the prevailing rate) and if not paid on the date agreed for payment ("Due Date") shall carry interest at the rate of 10 per cent per annum from the Due Date until actual payment.

6. Proprietary Rights of the Parties/Confidentiality/ Data Protection:

All Intellectual Property Rights in the Website Service including the construction, content and design of the Client Website and the name Repairer Online but excepting Client Materials are and shall remain the sole and exclusive property of the Company. Client Materials are the Client's logo and any materials supplied by the Client for incorporation in the Client Website or in relation to Additional Services. For the avoidance of doubt the Website Service entitles the Client only to the use of the Client Website hosted by the Company during the continuance of the Contract and the Client shall have no right to use and undertakes not to use the Client Website or the design or construction of the Client Website or any part thereof (except the Client Materials) at any time after the termination of the Contract.

7. General

7.1 The Contract may be signed in one or more parts and contains the whole agreement between the parties relating to its subject matter and supersedes all prior representations and agreements relating to same and no variation of it shall be effective unless agreed in writing by duly authorised representatives of both parties.

7.2 The Client shall not assign or sub-contract any of its rights or obligations under the Contract without the prior written consent of the Company.

7.3 The Company may assign the Contract subcontract the provision of the Service or part thereof on terms that the Company will remain fully liable to the Client for any breach of the provisions of this Agreement by any sub-contractor.

7.4 Neither the Client nor the Company shall have any liability to the other for any delay in performing or failure to perform its obligations under this Agreement as a result of Force Majeure meaning any of the following causes or circumstances namely, failure of power or telecommunications lines or other services, failure or breakdown of plant or equipment, suspension or interference with online access, non performance of suppliers and subcontractors and any other cause or circumstance beyond the reasonable control of the party affected by same.

7.5 All representations, conditions or warranties (whether written or oral, express or implied by statute or otherwise) relating to the nature, quality, fitness or performance of the Services are (save as specifically provided in the Contract) hereby excluded to the maximum extent permitted by law.

7.6 The liability of the Company in relation to the provision of the Services contract or tort (including negligence or breach of statutory duty) except for death or personal injury caused by the Company's negligence shall be limited in aggregate to £500.00 and the Company shall have no such liability to the Client for any loss of business or profits or special, indirect or consequential loss suffered by the Client or any other party.

7.7 No other person shall have any right hereunder to benefit from or enforce any provisions of this Agreement.

8. Termination/Suspension

8.1 The Company may terminate the Contract by immediate notice if the Client fails to make any payment to the Company within 14 days of the Due Date; or commits a material breach of the Contract and (if remediable) on being given written notice of breach fails to take prompt and effective action to remedy the breach; or ceases to carry on business normally; or goes into liquidation receivership or administration or suffers an analogous process.

8.2 The Company may by immediate notice suspend the supply of any of the Services at any time when the Client is in breach of the provisions of the Contract in which event the Company's charges will continue to be payable during any period of suspension. PROVIDED that the suspension, expiry or termination of the Contract (for whatever reason) shall not affect any rights or liabilities which have accrued prior to suspension or termination nor affect any provisions which are expressed or intended to continue in force following expiry or termination.

9. Notices

All notices and other communications under the Contract shall be in writing in the English language and deemed to be duly given if delivered by messenger during Business Hours or if posted by prepaid certified, recorded or registered mail to the Relevant Address of the recipient or if transmitted by email to the Relevant Email Address of the recipient. The Relevant Address and Email Address of the parties are as set out in the Contract or (for either party) such substituted details as such party shall notify to the other in writing from time to time for this purpose. Notices will be deemed given (as appropriate) if so delivered when delivered, if so posted two Business Days after posting and if so transmitted by email (transmission confirmed) at the expiry of two Business Hours from the time of transmission.

10. Law/ Jurisdiction

The Contract shall be governed by and construed in accordance with English Law and each party hereby agrees to submit to the exclusive jurisdiction of the English Courts as regards any claim, dispute or other matter arising under or by reference to the Contract.