

These are the Terms and Conditions of 33 Creative DPW Ltd (Number 11028818) of Lymedale Business Centre Lymedale Business Park, Hooters Hall Road, Newcastle under Lyme, ST5 9QF (33 Creative).

1. General

- a. Client' is any person, business or organisation which has contacted 33 Creative requesting information, or who has entered a Contract with 33 Creative for the provision of but not limited to website design and packages, search engine optimisation, printing, and graphic design (the Services).
- b. Proposal'-The Services offered to the Client by 33 Creative in accordance with their initial instructions supplied to 33 Creative and the Charge payable for these. Any Proposal will be open for acceptance for 30 days from issue unless otherwise stated by 33 Creative in writing.
- c. Quotation'- an email from 33 Creative to the Client setting out the Charge for certain specified Services and any other relevant details. It will remain open for acceptance for 30 days.
- d. Contract' – The legal agreement between 33 Creative and the Client for the provision of Services under the Proposal or the Quotation.
- e. 'Website'- the business website created, designed, or amended or hosted by 33 Creative in accordance with the Proposal.
- f. Monthly Website Package'- the provision of a website for a business including design, hosting and minor amendments payable monthly over a minimum 12-month period.
- g. Charge'- The sum payable for the provision of the Services ordered by the Client as set out in the Proposal or Quotation and any additional sums agreed between the parties.
- h. Start Date'- is the date 33 Creative will start work on a Monthly Website Package provided they have received all the information requested 14 days before that date. This will be provided once the Contract is made.
- i. Payment' – can be by BACS, Stripe or Go Cardless as advised.
- j. Days'- All the days in a week excluding weekends and Bank Holidays.
- k. These Terms and Conditions, any Proposal or Quotation and the Contract will represent the whole of the Terms between 33 Creative and the Client. Any changes to these must be agreed in writing by 33 Creative.
- l. The Client will have the opportunity to read these Terms and Conditions and any questions answered before entering the Contract and so the Client is accepting these Terms and Conditions by entering the Contract.

2. The Services

- a. The Services to be supplied under the Contract will be as contained in the Proposal or Quotation.
- b. Any amendment to the Contract must be accepted by 33 Creative in writing and an additional Charge may be payable. Such extra Charge may be added to the agreed monthly Charge or a separate invoice may be raised for immediate payment.
- c. The descriptions of the Services by 33 Creative will be as accurate as possible and provided in good faith.
- d. Advanced set up for search engine optimisation will include using a search engine analysis tool, including local location, and researched key word additions within the context of the home page, all page titles, all page descriptions, all header tags and connection to Google index.
- e. The Client must satisfy themselves that the Services on the Proposal or Quotation meet its requirements before entering the Contract. 33 Creative is always willing to answer any questions or queries.
- f. The Client must accept that the Services supplied may vary slightly from the Proposal or Quotation. 33 Creative cannot guarantee that any item will be identical to the description given and by entering the Contract the Client accepts this.
- g. If the Client has any particular requirements that are essential to them, they must contact 33 Creative to discuss the matter before entering a Contract to ensure this is acceptable to 33 Creative.

h. 33 Creative reserves the right to amend any Contract where in its professional opinion such amendment will lead to an improved result for the Client.

i. The Client must provide a maximum of three colours they wish to use on the Website. However, they must accept that no exact colours are guaranteed and that the appearance on a screen or in literature can differ slightly from any draft submitted.

j. 33 Creative reserves the right to subcontract any Services.

k. If any materials supplied by or on behalf of the Client including but not limited to copy, photos, artwork, and designs are in the professional opinion of 33 Creative not of the appropriate quality for the Website or other Services then 33 Creative has the right to reject their use within the Website or other Services.

i. If requiring an Ecommerce facility on the Website the Client will be offered initial training on Ecommerce site builds. It is the Client's responsibility to follow the requirements on this.

m. If the Client supplies any physical property such as artwork or samples to 33 Creative these can be returned to the Client when no longer required by 33 Creative if so, asked by the Client.

3. Monthly Website Package

a. For a new Website built under a Monthly Website Packages the Charge will include the right to three revisions only. If the Client requires over three revisions the Client will be invoiced for the work at 33 Creative's current hourly rate.

b. Once the Website build is finished the Client can have three minor amendments per month under the Monthly Website Package. More than three minor amendments or any amendments not deemed minor will be invoiced at the current hourly rate.

c. Minor amendments will include but are not limited to.

d. Text content adjustments and additions to all current active web pages.

e. Image changes.

f. Minor layout adjustments using current text content, images and graphic featured within the live website.

g. Contact and location information adjustment.

h. The Monthly Website Package includes an on-demand web amend service to keep the images, text content and layout of the Website up to date. To make an amend the Client must complete the form at <https://www.33creativepw.co.uk/webrequest>.

i. The frequency of monthly web amend requests will be recorded and this information used to determine the ongoing management plan and charge applicable after the 12-month initial contract has ended.

4. Graphic Design

a. Following an initial discussion Creative 33 will submit a Quotation for acceptance by the Client.

b. Once the Contract is made the Client must provide a brief to Creative 33 by email. If they are uncertain about this or have any questions, they must contact Creative 33 to discuss this.

c. The Charge provided in the Quotation will include a maximum of three amendments to the work supplied. Any amendments above that number will be charged at the current hourly rate.

5. The Contract

a. If a Proposal is issued the Contract is made when the Client has accepted a Proposal for the supply of Services and paid any Charge required or set up payment through GoCardless as required.

b. If a Quotation is supplied to the Client by email the Contract is made when the Client accepts the Quotation and pays any Charge requested at that point.

c. The Contract for once made cannot be cancelled unless a trial period has been agreed in advance.

d. The Contract for a Monthly Website Package will be for a minimum of 12 months. The Contract will then continue until terminated by one party giving the other one month's notice in writing. This will include if the Client wishes to terminate the contract at the end of the initial 12-month period. The Charge will automatically be reviewed at the end of the 12-month period.

- e. 33 Creative can terminate any Contract immediately should the Client commit a material breach of the Contract or these Terms and Conditions.
- f. The Contract can only be amended with the consent of 33 Creative in writing. The Client must accept that requested amendments may incur additional Charges and a longer period to completion.
- g. If 33 Creative is unable to accept your order you will be informed as soon as possible.
- h. 33 Creative has the right to discontinue the provision of any Services if it believes they could be libellous, illegal or a breach of any third-party rights.
- i. The Client shall have no right to seek any cancellation or repayment of the Charge based on the style or composition.

6. The Client's Obligations

- a. For the production of a Website the Client will be sent a content checklist once the Contract is made. All the necessary information for the Services must be provided as soon as possible and in any event 14 days before the Start Date. If the information is not received 14 days before the allocated Start Date, then the Start Date will be moved to the next available slot and the Client notified.
- b. Information provided by the Client to 33 Creative must be complete, accurate and provided in good faith. Any changes in facts or relevant activities must be communicated to 33 Creative as soon as possible. The Client accepts that changes could lead to the Contract being amended to cover the change in circumstances.
- c. If 33 Creative requires a decision, information, approval, consent, or any other communication from the Client the Client must provide these as quickly as possible and in any event within a reasonable time. Failure to comply will lead to the Services not starting or being paused.
- d. It will be the Client's responsibility to obtain any necessary consents, licences or any other permission required for the use of any images, material, copy or any other matter supplied by the Client to 33 Creative for use in the Services. 33 Creative will be under no obligation to check these have been properly obtained and the Client will indemnify 33 Creative against any claims arising from their use.
- e. Any delay in the provision of the Services arising from the failure of the Client to perform its obligations shall not be the responsibility of 33 Creative and the Client shall accept this.

7. Risk

- a. Where Services include the provision of physical goods such as printed materials the risk in such goods will pass to the Client when they are delivered to the Client or its representative.
- b. The title in such goods will not pass to the Client until payment of the Charge and any other expenses is made in full.

8. The Charge

- a. The Charge must be paid in accordance with the Proposal or Quotation.
- b. For a Monthly Website Package normally the first payment is made on the next following 25th day of the month through Go Cardless and subsequently on the 25th of each following month.
- c. If an invoice is raised for additional Website Services the invoice may be paid upon delivery or added to the monthly Charge as agreed at the time.
- d. For one off Website services and a search engine optimisation package an invoice will be raised and must be paid before any work is started.
- e. For printing and graphic design Services an invoice will be raised and be payable as stated on the invoice. New graphic design Clients must pay the invoice upfront by bank transfer or Stripe.
- f. In the event of continuous late or non-payment of invoices, 33 Creative reserves the right to request payment in advance before any future Services are supplied.
- g. If an Invoice is not paid within 30 days of issue, then interest at 8% per annum above the current Bank of England base rate will be payable together with the current recovery Charges.
- h. All invoices must be paid in full without set-off, deduction or counterclaim.
- i. If applicable Value Added Tax at the rate current at the time of the Contract will be added to the Charge.

j. If the Charge or any other monies due to 33 Creative remain unpaid 33 Creative reserves the right to take down the Website whether live or otherwise until payment in full is made. A reconnection charge currently £99 must also be paid before the Website is made live again.

k. If the Client wishes to transfer the Website to another server this will incur an extra charge if one months' notice is not provided as stated above.

l. If the Client wishes to continue with website management, hosting, marketing support and on demand web amends after the initial 12-month period 33 Creative will review the Charge where needed.

9. Completion of the Website

a. The Client will be given an estimate of how long it will take for the Website to be completed. This is subject to the Client providing all items and information fully and promptly and the number of amendments requested.

b. Time is not of the essence with completion of the Website. 33 Creative will not be liable for any loss or damage suffered by the Client or any third party through any reasonable delay due to unforeseen circumstances.

c. If the Client requires delivery by a certain date, then this must be communicated in writing to 33 Creative before the Contract is entered. 33 Creative is only bound by such date if they confirm acceptance of this in writing.

d. If the Client does not supply information when requested or materials required including copy and images promptly, they must accept that the time to completion will be delayed.

10. Limitation of Liability

a. Should 33 Creative be prevented, hindered or delayed from performing their obligations under the Contract by circumstances outside of their control (including without limitation acts of God, flood, drought, earthquake, other natural disasters, epidemic or pandemic, a terrorist attack, war, civil commotion or riots, war, the threat of or preparation for war, armed conflict, the imposition of sanctions, embargo or breaking off diplomatic relations, nuclear, chemical or biological contamination, any law or action by government or public authority, the collapse of buildings, fire explosion or accident, any labour dispute or strike, non-performance by suppliers or subcontractors, interruption or failure of utility service, any action or order from the government, travel restrictions 33 Creative shall be relieved from performing their obligations and will not be in breach of the Contract or otherwise liable for any such failure or delay in the performance of such obligations.

b. The liability of 33 Creative to the Client shall not exceed the Charge and any additional sums charged.

c. 33 Creative is not liable for any indirect or consequential losses to the Client or any third party.

d. The Contract is exclusive to the Client and no third party shall have any rights under that Contract.

e. 33 Creative has no liability for any loss of profits, goodwill, reputation, special or indirect losses or any other business losses.

f. 33 Creative does not exclude liability for death or personal injury caused by the negligence of 33 Creative or their employees, agents or subcontractors or fraud or fraudulent misrepresentation.

g. It is assumed that the Client is purchasing the Services in the course of a business unless advised in writing by the Client and this is accepted by 33 Creative.

11. Intellectual property

a. All copyright, trademarks and all other intellectual property rights in all Services and any Website content and/or custom development and code (jointly called the Materials) shall remain always vested in 33 Creative. Any attempt to copy any Materials or reproduce, transmit, publish, display exploit, or create derivative items shall render the Client liable for damages.

b. Upon payment in full of the Charge 33 Creative will grant the Client an indefinite licence to use the Materials supplied under the Contract for the purposes set out in the Contract in the Client's own business.

c. If the Materials supplied by 33 Creative are used by a third party for any purpose, not in the Contract the Client will be liable to 33 Creative for damages and will take appropriate steps to ensure such use ceases immediately.

d. If the Client wishes to use the content of the Services in a way beyond the Contract it must obtain written consent from 33 Creative and pay any Charge requested before doing so.

e. Any licence given by 33 Creative to the Client will automatically terminate should the Client become insolvent, wound up or cease trading.

12. Confidentiality

- a. 33 Creative will keep all information supplied to them by the Client not in the public domain in connection with the Services private and confidential and this will continue for a period of two years after completion of the Services. 33 Creative may disclose such information to any subcontractor, supplier, or employee to the extent necessary to provide the Services.
- b. 33 Creative will not publicise any details of the Services provided to the Client without having obtained their written consent to do so. 33 Creative may refer to the general fact that they are providing Services to the Client in their business materials unless the Client expressly requests that they do not do so.
- c. The Client will keep all information it discovers about 33 Creative and its employees strictly confidential. This includes information relating to their business methods, practices, employees, contractors and includes all information whether labelled as Confidential or not. This continues after completion of the Services.

13. Data Protection

- a. All data supplied to 33 Creative by the Client will be kept safely in accordance with the General Data Protection Regulations (GDPR) and general UK legislation as set out in their current Privacy Notice.
- b. The Client will similarly comply with all current data protection legislation when dealing with data regarding 33 Creative.

14. Complaints

- a. The Client must raise any problem or complaint it has with the Services immediately the issue arises, and 33 Creative will seek to find a mutually acceptable solution.
- b. The Client must, in any event, raise any Complaint about the Services within 14 days of the final Invoice being raised by 33 Creative or completion of the Services whichever is later.
- c. The complaint must be put in writing addressed to their account manager at 33 Creative who will take steps to consult with the Client and find a solution.
- d. If the Client remains dissatisfied with the Services, the matter will be passed to a Director who will take whatever steps they consider appropriate to resolve the issue.

15. Severance

If any part of these Terms and Conditions shall be deemed unlawful, void or for any reason unenforceable, then that provision shall be deemed to be severable from the Terms and Conditions and shall not affect the validity and enforceability of any of the remaining provisions.

16. Waiver

The waiver by 33 Creative of a breach, default, delay, or omission of any of these terms or the Contract by the Client will not be construed as a waiver of any preceding or subsequent breach of the same or other provisions.

17. Transfer

The Client may not transfer any of their rights under the Contract to any Third Party.

18. Law

The law of England and Wales govern these Terms and Conditions.