

Hudson Armstrong Design  
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DESIGN

## Terms and Conditions

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**Agreement:** A copy of these terms and conditions is available on our website, [www.hudsonarmstrong.com](http://www.hudsonarmstrong.com), and it is assumed that you have read and accept these conditions on commencement of the project. These terms and conditions apply to all projects undertaken by Hudson Armstrong Design Ltd, including website projects and print/marketing material projects. Payment of a deposit is taken as your understanding and acceptance of our terms and conditions.

### Definitions:

**The Client:** The company or individual requesting the services of Hudson Armstrong Design Ltd.

**Hudson Armstrong Design Ltd:** Primary designer/site owner, employees or affiliates.

### General

Hudson Armstrong Design Ltd will carry out work only where an agreement is provided either by email, telephone, mail or fax. Hudson Armstrong Design Ltd will carry out work only for clients who are 18 years of age or above. An 'order' is deemed to be a written or verbal contract between Hudson Armstrong Design Ltd and the client, this includes telephone and email agreements.

### Payment of Accounts

The price is exclusive of VAT and unless stated otherwise in writing, VAT shall be due at the rate prevailing at the date of the invoice. Whilst every effort is made to ensure that costing estimates are accurate, it is anticipated that further discussion and clarification on the scope and nature of the project may take place, hence the costs are subject to change and Hudson Armstrong Design Ltd reserves the right to amend the current price should an error or omission have been made. Costs submitted do not represent an undertaking or guarantee to undertake any of the tasks. A deposit is required from any new client before any work is started. Deposits are non-refundable. The Hudson Armstrong Design Ltd policy is that any outstanding accounts for work carried out by Hudson Armstrong Design Ltd or its affiliates are required to be paid in full, no later than 30 days from the date of the invoice unless by prior arrangement with Hudson Armstrong Design Ltd. All sums due from the client which are not paid on the due date shall bear interest from day to day at the annual rates of 5% above Bank of England base rate from time to time in force with a minimum rate of 10% per year and shall accrue at such rate after as well as before any judgement. Invoice queries must be advised within 10 days of the invoice date.

After the non-refundable deposit is paid and the project starts, invoices are issued for any work completed on a monthly basis, and you are obliged to pay all balance payments in full. Hudson Armstrong Design Ltd will invoice on a monthly basis for all work completed within that month with normal 30 day terms applied. We will contact clients via email and telephone to remind them of such payments if they are not received when due.

If accounts are not settled or Hudson Armstrong Design Ltd have not been contacted regarding the delay, access to the related website (if applicable) may be denied and web pages removed. Following consistent non payment of an invoice our Solicitors will contact the client in question, with a view to taking the matter further and if need be to seek payment through legal procedures, and if necessary court summons. Non payment can result in county court judgements (ccj's) being added to the clients credit rating.

### Website Design

Website design visuals supplied for presentation and pitching purposes remain the copyright of Hudson Armstrong Design. Copyright may be handed over by written formal agreement. The website design, graphics and any programming code remain the property of Hudson Armstrong

Design Ltd and its affiliates. Any scripts, cgi applications, php scripts, or software (unless specifically agreed) written by Hudson Armstrong Design Ltd or its affiliates remain the copyright of Hudson Armstrong Design Ltd and its affiliates and may not be commercially reproduced or resold. Whilst every endeavor will be made to ensure that the website and any scripts or programmes are free of errors, Hudson Armstrong Design Ltd cannot accept responsibility for any losses incurred due to malfunction of the website or any part of it.

Hudson Armstrong Design Ltd cannot take responsibility for any copyright infringements caused by materials submitted by the client. We reserve the right to refuse any material of a copyrighted nature unless adequate proof is given of permission to use such material. Unless otherwise specified in the project quotation, this agreement assumes that any text will be provided by the client in electronic format (via email or ftp) and that all photographs and other graphics will be provided in high quality print suitable for scanning or electronically in .gif, .jpeg or .tiff format. Hudson Armstrong Design Ltd cannot guarantee the return of any images or material provided for use in the creation of the website or printed matter.

Any additions to briefs provided will be carried out at the discretion of Hudson Armstrong Design Ltd and where no charge is made by Hudson Armstrong Design Ltd for such additions, Hudson Armstrong Design Ltd accept no responsibility to ensure such additions are error free and reserve the right to charge an according amount for any correction to these or further additions.

The client agrees to make available as soon as is reasonably possible to Hudson Armstrong Design Ltd all materials required to complete the project to the agreed standard and within the set deadline. Hudson Armstrong Design Ltd will not be liable for costs incurred, compensation or loss of earnings due to the failure to meet agreed deadlines.

Hudson Armstrong Design Ltd will not be liable or become involved in any disputes between the site owner and their clients and cannot be held responsible for any wrongdoing on the part of a site owner. eg. Any disputes re content/images that have been provided to us for inclusion on the site.

Hudson Armstrong Design Ltd will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on behalf of the client or any of the clients appointed agents. Hudson Armstrong Design Ltd will not be liable for any costs incurred, compensation or loss of earnings due to the unavailability of the site, its servers, software or any material provided by its agents.

Once a website has been designed and completed the final balance of payment is then due in accordance with our payment terms (even if the website is not live). There are no exceptions to this, i.e. If the client decides they no longer want the site, as they have commissioned the work and paid a deposit they are still obliged to pay for the work that has been done. Non payment will result in legal action being taken if necessary.

### Database, Application and E-Commerce Development

Hudson Armstrong Design Ltd cannot take responsibility for any losses incurred by the use of any software created for the client. Whilst every care has been taken to ensure products are problem free and accurate, the ultimate responsibility lies with the client in ensuring that all software is functioning correctly before use. Any scripts, applications or software (unless specifically agreed) written by Hudson Armstrong Design Ltd and its affiliates remain the copyright of Hudson Armstrong Design Ltd and may only be commercially reproduced or resold with the permission of Hudson Armstrong Design Ltd and its affiliates. Where applications or

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sites are developed on servers not recommended by Hudson Armstrong Design Ltd, the client is expected to provide or seek any information, additional software, support or co-operation pertaining to the server required in order for the application to be correctly developed. Where large applications are to be developed, Hudson Armstrong Design Ltd will provide a suitable testing environment which is identical to the final production environment. The client is expected to test fully any application or programming relating to a site developed by Hudson Armstrong Design Ltd before being made generally available for use. Where "bugs", errors or other issues are found after the site is live, Hudson Armstrong Design Ltd will endeavor to (but is not obliged to) correct these issues to meet the standards of function outlined in the brief. The client shall have 2 working days from the date of delivery of the finished product website to satisfy itself that it conforms to the estimate provided. Website software is guaranteed at time of delivery and budget should be allocated to allow for future software updates and development time required for support.

#### Website Compatibility

Hudson Armstrong Design Ltd will endeavor to ensure that any developed/ designed site or cms application will function correctly on the server it is initially installed in. Cross browser testing includes Windows: IE 8, Firefox, Opera; OSX: Safari, Firefox, Opera; and Linux: Konqueror, Firefox, Opera. Hudson Armstrong Design Ltd offer no guarantees of correct function with all browser software or compatibility if the browser is updated. Website will be built to ensure site conforms to best practice with initial w3c XHTML & CSS audit and initial WAI audit (minimum WAI-A compliance).

#### Website Hosting

Hosting is provided based on the bandwidth required for the website and the traffic generated. Website hosting cost is payable in advance based on an annual contract. Should payment not be received for the hosting prior to the commencement of the date of the hosting contract, Hudson Armstrong Design Ltd will disable the hosting without further notice. Should the bandwidth required and/or traffic generated increase during the hosting period, Hudson Armstrong Design Ltd reserve the right to increase the hosting charge accordingly. Should the client wish to host their website through an alternative server, Hudson Armstrong Design Ltd do not take responsibility for any anomalies which may occur to the design or programming of the site due to external hosting and shall have no obligation to provide any source code to the client or any ongoing obligation to provide any support or maintenance of any form. Support time will be charged at a cost of £65 + VAT per hour to sort out these anomalies. Three months notice of termination of the hosting contract will be required together with payment of all outstanding hosting charges, together with an administration charge of £35 + VAT and any domain name transfer charges, prior to transfer taking place.

Whilst Hudson Armstrong Design Ltd provide hosting through PLESK, via 1and1 and Netwise, no guarantees can be made as to the availability or interruption of this service and Hudson Armstrong Design Ltd cannot accept liability for losses caused by the unavailability, malfunction or interruption of this service, or for loss of turnover, sales, revenue, profits or indirect, consequential or special loss. Any interruption of service will be resolved as soon as practicable but no timescale is guaranteed. Hudson Armstrong Design Ltd reserve the right to refuse to handle in any way material which may be deemed offensive, illegal or in any way controversial, and also to terminate the hosting service should the necessity arise.

#### Software Copyright & End User License

All intellectual property including copyrights to the software remain with Hudson Armstrong Design Ltd and the developer. The client will be granted a perpetual, non-exclusive license to use the software for the specific website.

#### Open Source Development

The supply of third party open source software (eg. Drupal, Concrete, Wordpress, CiviCRM, CS Cart etc.) along with any enhancements made by the developer or third party plug-ins to the software, is provided under the terms and conditions of the GNU General Public Licence (GPL). Please read the copyright statement and GNU GPL and make sure you understand them completely: [www.gnu.org/copyleft/gpl.html](http://www.gnu.org/copyleft/gpl.html)

In particular, please note the NO WARRANTY section of the GPL. This means that, along with the original authors, Hudson Armstrong Design and the developer make no warranty with regard to the software whatsoever, this includes any enhancements that may be installed, developed or otherwise supplied, or where upgrades to the software or enhancements and plug-ins may affect the functionality or design of the website which is beyond our control.

Having said that, the open source software comes free of charge and often has an active development community. Equally, Hudson Armstrong Design and the developer will be on hand to provide additional advice and support services, at the support rate of £65 per hour, should you encounter any problems in the future.

#### Limited Liability & Consequential Loss

To the extent permitted by English Law, our entire liability under any agreement to develop the software or provide related services will be limited to a sum equal to that paid to us and/or our affiliated developer for the same software or services. In no circumstances will be liable for any damage, loss of profits, goodwill or any indirect or consequential loss arising out of the use of the software, or inability to use the software, even if Hudson Armstrong Design Ltd and/or our affiliated developer has been advised of the possibility of such loss.

#### Domain Names

Hudson Armstrong Design Ltd may purchase domain names on behalf of the client. Payment for and renewal of these domains is the responsibility of the client. The loss, cancellation or otherwise of the domain brought about by non or late payment is not the responsibility of Hudson Armstrong Design Ltd. A renewal invoice will be issued in advance of the due date with payment due prior to the domain renewal date. We cannot accept responsibility for any rights or breaches caused by the domain name registration.

#### Client Changes

Amendments, adjustments and additions to the designs that are requested by the Client above and beyond those agreed on commencement of the project or agreed as inclusive to the work undertaken as a part of the project, shall be chargeable at the hourly or daily rate referred to in the estimate or letter from Hudson Armstrong Design Ltd.

#### Client Delays

Hudson Armstrong Design Ltd provide a prompt and efficient service and in order for us to meet project deadlines specified it is essential that clients supply information, copy and images on time and to agreed deadlines, as well as supplying corrections on time. Hudson Armstrong Design Ltd cannot be held responsible for delays to the schedule and final delivery of the product if these deadlines have not been adhered to.

#### Client Sign Off

Proofs of all work will be submitted for client approval and Hudson Armstrong Design Ltd shall incur no liability for any errors not corrected by the client in proofs so submitted. Colour proofs are intended to give a reasonable representation of the colour, imagery and materials that can be expected in a production item. Exact colours, finishes and image resolutions may differ due to technical aspects of proofing and production technologies. When style, type or layout is left to the company's judgement, changes thereafter made by the client shall be charged extra. It is the Client's responsibility to thoroughly check all proofs supplied by Hudson Armstrong Design Ltd. Acceptance of the proof is indicated by a signature on the proof slip and on each sheet of the proof supplied. Such acceptance relates to all textual and numerical content in the design work.

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### Design Credit

A design credit will appear on all printed matter or website project. For websites, a link to Hudson Armstrong Design Ltd will appear in either type or graphic at the bottom of the client's website. If a graphic is used, it will be designed to fit in with the overall site design.

### Standing Material

All master artwork, illustrations, photography, metal, film, glass and other materials owned by Hudson Armstrong Design Ltd and used by them in the production of type, plates, moulds, stereotypes, electrotypes, film-setting, negatives, positives shall remain the exclusive property of the company. Such items when supplied by the client shall remain the client's property. All property supplied to the company is deemed to be at the client's risk and should be insured.

### Variations in Quantity

For printed matter, every endeavour will be made to deliver the correct quantity ordered but estimates are conditional upon margins of five percent for work in one colour only and 10 percent for other work being allowed for overs or shortage (four percent and eight percent respectively for quantities exceeding 50,000) the same to be charged or deducted.

### Delivery

For printed material, unless otherwise specified the price quoted is for delivery of the work to the client's address as set out in the estimate. A charge may be made to cover any extra costs involved for delivery to a different address. Where separate printed items are due for delivery, delivery will be made on the same day - if two or more deliveries are required, these will be charged extra. Advice of damage, delay or partial loss of goods in transit or of non-delivery must be given in writing to Hudson Armstrong Design Ltd and the carrier within three clear days of delivery (or, in the case of non-delivery within 28 days of despatch of goods) and any claim in respect thereof must be made in writing within seven clear days of delivery (or, in the case of non-delivery within 42 days of despatch). All other claims must be made in writing within 28 days of delivery. Hudson Armstrong Design Ltd shall not be liable in respect of any claim unless the afore-mentioned requirements have been complied with except in any particular case where the client proves that (i) it was not possible to comply with the requirements and (ii) advice (where required) was given and the claim made as soon as reasonably possible.

### Termination

In the unlikely event of a project being terminated before completion, termination of services by the client must be requested in a written notice and will be effective on receipt of such notice. Email or telephone notification will not be accepted. The client will be invoiced for all work undertaken to the date of cancellation of services with payment due in full within thirty days.

### Informal Complaints Procedure

Anyone who experiences a problem with the service provided by Hudson Armstrong Design Ltd should raise the matter directly using our online contact form to do so, giving sufficient information to locate the material (such as an url) and clearly outlining the grounds for complaint. Hudson Armstrong Design Ltd will approach the individual responsible for the material in question with a view to resolving the matter to the satisfaction of the complainant.

### Formal Complaints Procedure

The formal complaints procedure should only be used where the complainant feels that the nature of the complaint is too serious to be dealt with informally, or where a satisfactory conclusion has not been reached after following the informal procedure. A formal complaint should be made in writing to Hudson Armstrong Design Ltd, who will acknowledge receipt and ensure that the matter is looked into as soon as possible. An initial response to any complaint can be expected within seven days of its receipt; a full and considered response to the complaint should be completed within 30 days and any subsequent remedy implemented with the minimum of delay.

### Insolvency

If the client ceases to pay his debts in the ordinary course of business or cannot pay his debts as they become due or being a company is deemed to be unable to pay its debts or has a winding-up petition issued against it or being a person commits an act of bankruptcy or has a bankruptcy petition issued against him, Hudson Armstrong Design Ltd, without prejudice to other remedies shall:

- (i) have the right not to proceed further with the contract or any other work for the client and be entitled to charge for work already carried out (whether completed or not) and materials purchased for the client, such charge to be an immediate debt due, and
- (ii) in respect of all unpaid debts due from the client have a general lien on all goods and property in its possession (whether worked on or not) and shall be entitled on the expiration of 14 days notice to dispose of such goods or property in such a manner and at such price as seen fit and to apply the proceeds towards such debts.

### Force Majeure

Hudson Armstrong Design Ltd shall be under no liability if it is unable to carry out any provision of the contract for any reason beyond its control including, without limiting the foregoing, Act of God, legislation, war, fire, flood, drought, failure of power supply, lock-out, strike or other action taken by employees in contemplation of furtherance of a dispute or owing to any inability to procure materials required for the performance of the contract. During the continuance of such a contingency the client may by written notice to the company elect to terminate the contract and pay for work done and materials used, but subject thereto shall otherwise accept delivery when available.

### Law

These conditions and all other express terms of the contract shall be governed and construed in accordance with the laws of England.