

The following Terms of Service apply to the design and development services provided by Third Arc Limited. The General Terms and Conditions apply in addition to these Terms.

A list of definitions used in all Terms can be found here:
<http://www.thirdarc.com/terms/>

Cancellation and Refund Policy

If the Customer wishes to cancel its order, it should notify Third Arc Limited by email to accounts@thirdarc.com before Third Arc Limited sends out its acceptance of the order.

Deposits are non- refundable and cover any applicable setup and design costs.

Where an order is cancelled after acceptance, Third Arc Limited reserves the right to reduce the amount refunded to the Customer by the amount of any costs Incurred during the provision of the Product or Service up to but not exceeding the total cost of the Product and/or Service. A standard administration charge of £20 will apply to all refunds.

Should an order be cancelled by either party, the Customer acknowledges that it will have no right (express or implied) to use any concept or other work Product, Service, Content, or media, nor any ownership interest in or to them.

Customer Obligations

Where the Customer has engaged Third Arc Limited to carry out any Services that requires direct or remote access to a Hosted Environment (either owned by or leased by the Customer) the Customer will authorise and make provisions for Third Arc Limited, its employees or authorised subcontractors to access to the Hosted Environment free of charge as is necessary to carry out the Services. The Customer also acknowledges that it has authorisation to do so.

The Customer shall not access the Software, its Content or data in any way other than through the interface that is provided by Third Arc Limited for this purpose. It is the responsibility of the Customer to keep access to these means secure.

Communication

The Customer agrees to provide timely responses to Third Arc Limited. After requesting further information, review feedback or Customer sign off for any stage of work the Customer shall have 30 days to respond with feedback for further revision work or acknowledgement that a work stage has been completed. If after 30 days the Customer has failed to respond with the requested information, Third Arc Limited will take this to mean that the Customer is satisfied that the Project has been completed according to the purchase contract. The Project will be closed and Third Arc Limited will have no further obligation to the Customer. The Customer shall pay all costs and fees as agreed in the purchase contract.

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In the rare case that the Customer requires more time to provide feedback they shall request additional time and specify a date when feedback will be provided to Third Arc Limited. This date must be agreed by Third Arc Limited to be applicable.

Customer Content

The Customer agrees to, **within six weeks** of the order date, provide Third Arc Limited with all Content required to complete the Project. If complete Content is not provided by this time, then the entire amount of the contract becomes due and payable. If the Customer does not provide complete Content within two months after the Commencement date an additional continuation fee of 10% of the total contract price will be payable each month until the complete Content is provided.

Content sent by the Customer to Third Arc Limited should be in its **final** form. Time required to make substantive changes to Content after formatting has been carried out will be treated as additional support and charged at Third Arc Limited's standard hourly rate.

Service Availability

The Customer acknowledges that Third Arc Limited's systems, servers and equipment may from time to time be inoperative or only partly operational as a consequence of mechanical breakdown, maintenance, hardware or Software upgrades, telecommunication connectivity problems or other causes outside its control.

Third Arc Limited agrees to rectify faults or problems and to restore the system to full operational capacity as soon as reasonably practicable.

Third Arc Limited excludes liability for any loss of profit caused to the Customer as a result of the system not being fully operational.

Websites, web applications and other hosted Software will only be available during the period of subscription to the hosting Services provided by Third Arc Limited.

Termination

This Agreement will terminate when the Customer has signed the Project Completion document or the Review Stage has expired, whichever is sooner.

The Customer and Third Arc Limited agree to work together to complete the Project by the date specified where applicable.

Only when this Agreement has terminated, except through premature termination or any breach of this Agreement, and when all outstanding balances owed to the Third Arc Limited have been paid will:

1. Rights under this Agreement transfer to the Customer

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2. Deliverables be sent to the Customer and within 30 days
3. Software / Websites be made live and within 30 days where applicable

The Customer agrees that Third Arc Limited, in its sole discretion, may terminate its password, account (or any part thereof) or its use of Third Arc Limited Services at any time with or without notice.

The Customer agrees that Third Arc Limited may remove and archive or discard any Content within Third Arc Limited Services, including, without limitation, for lack of use or if the Company believes that the Customer has violated or acted inconsistently with the letter or spirit of the Terms of Service.

The Customer acknowledges and agrees that Third Arc Limited may immediately deactivate, archive or delete your account and all related information and files in your account and/or bar any further access to such files or accounts.

If such action is taken as a result of the Customer's breach of these Terms of Service the remainder of any payment made by the Customer will not be refundable.

Rights and Licences

Rights and licences as set out in these Terms of Service will only be transferred to the Customer subject to compliance with these Terms of Service and when full and final payment has been received by Third Arc Limited. Until that time, Third Arc Limited and its licensors retain full ownership and copyright of any Product.

Third Arc Limited will hold designs on file for 12 months. This is not guaranteed and it is advised that the Customer keeps safe a copy of any Product(s) supplied to them. Third Arc Limited reserves the right to charge a reasonable fee for re-sending a copy of these Product(s) to the Customer. This will cover the cost of Administration and postage where applicable.

The licensing of any third party font, art work, photograph or image used in any Product remains the responsibility of the Customer. The Customer unconditionally guarantees that any elements of text, graphics, photos, fonts, designs, trademarks, or other artwork supplied to Third Arc Limited for inclusion in any Product(s) are owned by the Customer, or that the Customer has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Third Arc Limited and its subcontractors from any claim or legal action arising from the use of such elements furnished by the Customer.

Software

Third Arc Limited grants to the Customer, a personal, non-transferable and non-exclusive right and licence to use a single instance of the Software on a single computer for any business application or website purchased in full on a non-subscription basis;

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provided that the Customer does not (and does not allow any third party to) copy, modify, create a derivative work of, reverse engineer or attempt to discover the source code in any other way, sell, assign, sublicense the Software or any associated files.

Any Software is used under licence from Third Arc Limited and remains the copyright of Third Arc Limited and its licensors.

Content

Third Arc Limited agrees that the Content supplied by the Customer will remain the copyright of the Customer or its licensors.

Designs

Third Arc Limited grants to the Customer, a personal, non-transferable and non-exclusive right and licence to use the final design(s) chosen by the Customer if they have been purchased in full on a non-subscription basis. The Customer or its agents may reproduce the design(s) for the promotion of the Customer. The design(s) may not be reproduced in any other way without the prior written consent of Third Arc Limited.

All other designs, logos, materials, concepts, media or Content produced during any of the revision stages before the final design will remain the ownership and copyright of Third Arc Limited. This material may not be reproduced in any other way without the prior written consent of Third Arc Limited.

The Customer acknowledges that these designs, materials, concepts, media or Content may be used by the Third Arc Limited to promote the Services of the Third Arc Limited. The Customer hereby grants licence to the Third Arc Limited to reproduce the Customer's logo or mark if it appears in these design(s) solely for the purpose of promoting the Services of the Third Arc Limited.

Schedule of Work

The following schedule describes the stages in the design and development process and acceptance tests for each stage. Not all stages may be applicable to all products.

Design Stage

Based upon initial consultation with the Customer, Third Arc Limited will produce an initial concept design. This is to be used as a starting point for the project and will help to define its direction.

The Customer will give feedback when requested by Third Arc Limited and Third Arc Limited will revise the concept design(s) based upon this feedback. The Customer will provide constructive feedback that drives the designs towards completion. With each revision, the design choice should be narrowed towards the final design.

When the Customer is satisfied with the final design and has signed the Design

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Acceptance document, then the Design Stage is complete. Any further amendments to the design after this point will incur additional fees.

Development Stage

Once the designs have been finalised and final Content provided by the Customer, the development work can begin. When development has been completed, the Website / Software will be uploaded to a test location for the Customer to review and the Development Stage will be completed.

Review Stage

The Customer will have 30 days to review the Website / Software, to ensure that it meets the specification as set out in the Purchase Contract. If the Customer feels that any areas of work as set out in the specification have not been met, or they identify any errors or defects within the Review Stage, then they will raise these issues with Third Arc Limited within 48 hours.

An error or defect is any feature from the specification that does not operate as intended according to the specification. Any change to the hosting environment that causes such defect shall not be considered a defect.

Any errors or defects will be rectified by Third Arc Limited at the earliest opportunity.

The Review Stage will be complete when the Customer has signed the Project Completion document, or when the 30 day review period has expired, whichever is sooner. This will also mark the end of the Agreement.

Disclaimer of Warranties

The Customer expressly understands and agrees that:

All warranties, conditions and representations whether express or implied other than express warranties stated by Third Arc Limited in writing are expressly excluded except in circumstances whereby Third Arc Limited is by law unable to exclude or limit such liability.

Third Arc Limited makes no warranty that any of its Software will work as intended on any other Hosted Environment, other than the Hosted Environment for which it was originally developed.

Where the original Hosted Environment is changed, it is the responsibility of the new hosting provider to ensure that the Software, and any related configuration or security provisions are set up properly. Once the Hosting Environment is changed in any way, Third Arc Limited will have no responsibility or liability for the operation or mis-operation of the Software or any issues that arise as the result of the Hosted Environment change.

The Customer agrees that it uses the Products and Services supplied by Third Arc

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Limited at its sole risk. The Services are provided on an "as is" and "as available" basis and Third Arc Limited and its suppliers, to the fullest extent permitted by law, make no warranties, express or implied, in relation to these Products and Services.

Liability

Third Arc Limited, any other party (whether or not involved in creating, producing, maintaining or delivering the Software), and any of Third Arc Limited's group companies and the officers, directors, employees, shareholders or agents of any of them, exclude all liability and responsibility for any amount or kind of loss or damage that may result to the Customer or a third party (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in tort (including without limitation negligence), contract or otherwise) in connection with, as a result of or caused by any of the following:

1. The Software in any way or in connection with the use of or inability to use the Software, any websites linked to Software or the material on such websites, including but not limited to loss or damage due to viruses that may infect computer equipment, Software, data or other property on account of the Customers access to, use of, or browsing the Software or its downloading of any material from the Software or any websites linked to the Software;
2. Unauthorised access to or alteration of the Customers transmissions or data; statements or conduct of any third party on the Service; or any problems resulting from improper use of the Software by the Customer or any other third party;
3. Technical fault or any other fault caused by Third Arc Limited or any third party.

If the use of material from the Software or the Software itself results in the need for servicing, repair or correction of equipment, Software or data, the Customer will assume all costs thereof.

Nothing in these terms and conditions shall exclude or limit Third Arc Limited's liability for:

1. Death or personal injury caused by negligence (as such term is defined by the Unfair Contract Terms Act 1977);
2. Fraud;
3. Misrepresentation as to a fundamental matter; or
4. Any liability which cannot be excluded or limited under applicable law.