



## **1. EL Marketing & Design Terms and Conditions of Website Use**

1.1 This document provides the terms and conditions upon which you may make use of the website made available and operated at [www.elmarketingdesign.com](http://www.elmarketingdesign.com) ("our site").

1.2. Please read these terms and conditions of website use carefully before you start to use our site. These terms and conditions of website use are a legally binding document and create binding obligations upon you. If you do not understand any part of these terms and conditions of website use please contact us at [E.Lacey1@outlook.com](mailto:E.Lacey1@outlook.com).

1.3. Our site is made available and operated by EL Marketing & Design ("we", "our", "us"). We are a company registered in Scotland.

1.4. By using our site, you accept these terms and conditions of website use and agree to abide by them. If you do not agree to these terms and conditions of website use, please do not use our site.

## **2. Access**

2.1. Our site is a place for people to access information about our services and our portfolio.

2.2. If you are using our site on behalf of a company, partnership, or other legal entity, you warrant that you have the authority to bind such entity.

2.3. Access to our site is permitted on a temporary basis, and we reserve the right to withdraw or amend the services and the material made available upon or through it without notice. Unless explicitly stated to the contrary the supply or making available of any services or material shall be subject to the terms and conditions of website use.

2.4. We reserve the right at our sole discretion, at any time, and for any reason to terminate, restrict, suspend, or refuse your use of our site or any part of our site without notice.

2.5. You are responsible for making all arrangements necessary for you to have access to our site. You are responsible for ensuring that your computer system meets all relevant technical specifications necessary to use our site and is compatible with our site. You are also responsible for ensuring that all persons who access our site through any facilities provided by you or over which you have control are aware of these terms and conditions of website use and that they comply with them.

## **3. Availability and operation**

3.1. We shall use reasonable endeavours to ensure that our site and any services or material are available and that our site operates properly at all times.

3.2. We may suspend the availability or operation of our site or the availability of any services or material on a temporary or indefinite basis as we may in our sole discretion determine.

3.3. All warranties of guarantees as regards the availability of our site and the availability of any services or material, in so far as they may be excluded and other than as explicitly specified hereunder, are excluded. We exclude all liability for any damages, loss, costs, or expenses relating to or arising out of the availability of any services or material.

#### **4. Access and use of services and material**

4.1. Without explicit consent you are not permitted to download or use any of the materials provided throughout this site including but not limited to images, documents, and videos.

4.2. You may use for the purposes for which they are supplied (but for no other purpose) any service supplied to you and provided that you have not breached these terms and conditions of website use.

4.3. No other rights, permissions, consents, or licences are granted in relation to our site, the services or the material other than as expressly set out in these terms and conditions of website use.

#### **5. Your submissions to our site**

5.1. By submitting information to our site, you grant us the right to use that information to operate our site and our business.

5.2. Subject to such limitations and additional conditions as are otherwise set out in these terms and conditions of website use and in exercise of the foregoing rights we may copy, modify, adapt, create derivative works based upon, analyse, publish and disseminate, extract elements from and reorganise such information. You acknowledge and agree that we may sub-licence these rights or transfer these rights to other persons as we determine from times to times.

5.3. By submitting information to or through our site you are guaranteeing that you have the right to grant to us the rights described in condition 5.2. If you are not able to grant to us these rights, please do not submit such information. Where you submit information which has not been created solely by you, you must obtain the permission from any other creator to allow you to grant these rights.

5.4. You warrant and undertake that any information submitted by you to or through our site shall not:

5.4.1. Be defamatory of any person;

5.4.2. Be obscene, offensive, hateful or inflammatory;

5.4.3. Promote discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;

5.4.4. Disclose their name, address, telephone, mobile, fax number, e-mail address or any other personal information in respect of any individual other than where you have the express permission of that individual to disclose such information and to allow such information to be used and made available subject to and in accordance with these terms and conditions of website use;

- 5.4.5. Infringe any intellectual property rights of any other person;
  - 5.4.6. Breach any legal duty owed to a third party, such as a contractual duty or a duty of confidence;
  - 5.4.7. Be in contempt of court or court order;
  - 5.4.8. Be likely to harass, embarrass, alarm or annoy any other person;
  - 5.4.9. Impersonate any person, or misrepresent your identity or affiliation with any person;
  - 5.4.10. Advocate, promote, incite any third party to commit, or assist any unlawful or criminal act; or
  - 5.4.11. Contain a statement which you know or believe, or have reasonable grounds to believe, that members of the public to whom the statement is, or is to be, published are likely to understand as a direct or indirect encouragement or other inducement to the commission, preparation or instigation of acts of terrorism.
- 5.5. The warranties provided for in this condition must be complied with in spirit as well as to the letter. We will determine, in our sole discretion, whether any material or information submitted by you through our site breaches these warranties. You indemnify and shall keep us fully and effectively indemnified on demand from and against all actions, claims, losses, liability, proceedings, damages costs, expenses, loss of business, loss of profits, business interruption and other pecuniary or consequential loss (including legal costs and expenses) suffered or incurred by us and arising directly or indirectly out of your breach of these warranties.
- 5.6. Where information submitted to or through our site, in our opinion breaches these terms and conditions of website use, we may at our sole discretion take all or any of the following actions:
- 5.6.1. Investigation of the identity of the person responsible for submitting such information or material and the circumstances surrounding the submission of such information or material, in respect of which you undertake to provide us with confirmation of your identity and any other information we may require in connection therewith and to cooperate with us fully;
  - 5.6.2. Immediate, temporary or permanent withdrawal or removal of the information or material or your ability to access our site;
  - 5.6.3. Issuing a warning to you;
  - 5.6.4. Raising legal proceedings against you for recovery of all costs resulting from the breach;
  - 5.6.5. Raising further legal action against you;
  - 5.6.6. Disclosing such information to law enforcement authorities or relevant third parties as we reasonably feel is necessary or as required by law; or
  - 5.6.7. Such other action as we reasonably deem appropriate.
- 5.7. We hereby exclude all liability for any damages, loss, costs or expenses relating to or arising out of the taking or not taking of all and any of the action referred to in condition 5.6.

## **6. Digital content**

- 6.1. Our site may contain digital content which is available for download by users.
- 6.2. Each section of our site at which content is available for download (now or in the future) will guide you through the steps you need to take to download digital content:
  - 6.2.1. You will be prompted to select the digital content that you wish to download;
  - 6.2.2. You will then be required to read and agree to these terms and conditions prior to a download commencing; and
  - 6.2.3. Once you have clicked the relevant download button the chosen digital content will be made available to you.
- 6.3. We may contact you to inform you that we do not accept your request to download digital content if the digital content is unavailable.
- 6.4. The digital content will be made available to you once you have clicked on the relevant download button the 'download' button (see condition 6.2.3).
- 6.5. When you download the digital content and access it, you will not own it. Instead we give you permission to use it (also known as a 'licence'):
  - 6.5.1. In terms of this condition 6; and
  - 6.5.2. For the purpose of you using and it according to this service and material.
- 6.6. The digital content:
  - 6.6.1. May not be:
    - 6.6.1.1. Copied by you;
    - 6.6.1.2. Changed by you (which means, in particular, that you are not allowed to adapt or change any of the content of the digital content);
    - 6.6.1.3. Combined or merged with, or used in, any other content or computer program; or
    - 6.6.1.4. Distributed or sold by you or any third party;
  - 6.6.2. Does not include:
    - 6.6.2.1. updates; or
    - 6.6.2.2. new versions;
  - 6.6.3. contains information which is owned by us or third parties or both. You must not conceal, change or remove and marketing which show who owns this information, such as copyright, registered trade mark or unregistered trademark markings; or

6.6.4. except where you have permission to use the digital content under the clause 6.6, you will not obtain any rights of ownership or other rights (or whatever nature) in the digital content or in any copies of it.

6.7. We provide no guarantee or make any other warranty in relation to the availability of the digital content. We will make all commercially reasonable efforts to provide availability.

6.8. When we supply the digital content:

6.8.1. We will use reasonable efforts to ensure that it is free from defects, viruses and other malicious content;

6.8.2. We do not promise that it is compatible with any third party software or equipment except where we have said that it is in the guide to its use; and

6.8.3. You acknowledge that there may be minor errors or bugs in it.

## **7. Linking to our site**

7.1. You may link, or may procure that a third party acting on your behalf links, to the home page of our site from a website owned by you, provided that such link is provided in a way that is fair and legal and does not damage our reputation or take advantage of it.

7.2. You must not establish or procure that any third party establishes a link to our site in such a way as to suggest any form of association, approval or endorsement of you or any entity which you represent by us without our explicit prior written consent.

7.3. You must not establish or procure that any third party establishes a link from any website that is not owned by you.

7.4. You must not establish or procure that any third party establishes a link to any page upon our site other than our home page.

7.5. You must not frame or procure that any third party frames our site on any other website.

7.6. You must not aggregate content from our site within another website nor procure that any third party undertakes such activities.

7.7. We reserve the right to withdraw our permission to link to our site without notice and for whatever reason as we may in our sole discretion determine.

## **8. Links from our site**

8.1. Where our site contains a link to a site provided by a third party (a "third party site"), such a link is provided for the purposes of information and convenience only.

8.2. The provision by us of a link to a third party site does not represent any endorsement or recommendation by us in respect of that third party site and does not mean that we have any association with the third party site. We have no control over the contents of third party sites.

8.3. We exclude all liability for any damages, loss, costs or expenses arising out of any use or interaction by you with third party sites.

## **9. Viruses, hacking and other offences**

9.1. You must not:

9.1.1. Misuse of our site by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful including that which may damage, detrimentally interfere with, surreptitiously intercept or expropriate our systems, data or information;

9.1.2. Attempt to gain unauthorised access to our site, the servers on which our site is stored or any server, computer or database connected to our site;

9.1.3. Use any robot, spider, other automatic device, or manual process to monitor or copy our site, or use any device, software or routine to bypass our robot exclusion headers, or interfere or attempt to interfere, with our site;

9.1.4. Use an anonymising proxy to access our site;

9.1.5. Attack our site via a denial-of-service attack or a distributed denial-of-service attack;

9.1.6. Take any action that imposes an unreasonable or disproportionately large load on our infrastructure, or that may cause us to lose any of the services from our service providers, including our internet or payment service providers; or

9.1.7. Do, or omit to do, or attempt to do or omit to do, any other act or thing which may interfere with the proper operation of our site.

9.2. If you breach this clause we have the right to report any such breach to the relevant law enforcement authorities and we will co-operate with those authorities by disclosing your identity to them. In the event of such a breach, your right to use our site will cease immediately.

9.3. You also understand that we cannot and do not warrant or guarantee that any material available from our site or services accessible through our site will be free from infection, viruses and/or other code that has contaminating or destructive properties. You are responsible for implementing sufficient procedures and virus checks (including anti-virus and other security checks) to satisfy your particular requirements in this respect. To the extent possible under applicable law we exclude all liability for any damages, loss, costs or expenses relating to or arising out of any distributed denial-of-service attack, viruses or other technologically harmful material that may infect computer equipment, computer programs, data or other proprietary material due to use of or access to our site, or any services or material.

## **10. Accuracy, errors and reliance**

10.1. We shall try to ensure that all material is, and all services are provided, free from inaccuracies and errors. Please note though that our site, and the services and the material may contain inaccuracies or errors. You acknowledge that our site, the services and the material may not be free of errors and you agree that the existence of any errors shall not constitute a breach

of these terms and conditions of website use. Except as expressly stated, we make no guarantees or warranties in respect of the accuracy or suitability of any services or material.

- 10.2. Material is general in nature and is not intended to amount to advice (relating to your own particular circumstances or otherwise) on which reliance should be placed. You undertake not to rely upon such material. You undertake not to provide any such material to any third party with a view to that third party relying upon that material.
- 10.3. Except as expressly stated we exclude all liability for any damages, loss, costs or expenses incurred relating to or arising out of any inaccuracies or errors within our site, the services or any material (including user material), or reliance placed upon any material.
- 10.4. All warranties, representations or guarantees in respect of our site, the services, material or user material other than as expressly set out hereunder are excluded in so far as is possible under applicable law.

## **11. Intellectual property**

- 11.1. Our site, the services and the material are protected by international copyright laws and other intellectual property rights.
- 11.2. Any intellectual property rights in our site, the services and the material are licensed not transferred to you, for the purposes expressly stated in these terms and conditions of website use.
- 11.3. We are the owner of all intellectual property rights in the services.
- 11.4. Please note that we give no warranties or guarantees and make no representations in respect of any user material.
- 11.5. You must not:
  - 11.5.1. Use or copy;
  - 11.5.2. Adapt;
  - 11.5.3. Disassemble, decompile, reverse engineer, create derivative works based upon, extract elements from or reorganise;
  - 11.5.4. Translate, merge, adapt, vary, modify or make alterations to; or
  - 11.5.5. Further disseminate, distribute or license rights in, our site or any material or any copies thereof other than as expressly stated hereunder.
- 11.6. Our status or that of any identified contributors as the authors of the material must always be acknowledged. Such acknowledgement must include the address of our site.
- 11.7. Other than as explicitly specified hereunder nothing contained in these terms and conditions should be construed as granting by implication, estoppel, personal bar or otherwise any license or right to use or enjoy our site, the material or any intellectual property rights in any services without our express written permission.

11.8. You must not attempt in any way to remove or circumvent any technical protection measures applied to our site or any services or material to prevent unauthorised use, copying or misappropriation thereof or of the intellectual property rights relating thereto, or apply, manufacture, import, distribute, sell, let for hire, offer, expose, or advertise for sale or hire or have in your possession for private or commercial purposes, any means whose sole reasonable purpose is to facilitate the unauthorised removal or circumvention of such technical protection measures.

## **12. Complaints regarding material**

Any complaints about any material, or service, must be sent to us at [E.Lacey1@outlook.com](mailto:E.Lacey1@outlook.com). We will then review the material or service. We shall in our sole discretion determine whether to remove the material or service from our site, or alter the material or service. If we decide to remove or alter the material or service, our removal or alteration shall not be an admission as to any fact or circumstance, or be deemed to be an acceptance of your complaint. We may or may not respond to your complaint.

## **13. Exclusions**

13.1. The terms of our privacy and cookie policy available at [www.elmarketingdesign.com](http://www.elmarketingdesign.com) shall form part of these terms and conditions of website use.

13.2. These terms and conditions of website use and our privacy and cookie policy are available at [www.elmarketingdesign.com](http://www.elmarketingdesign.com) set out the full extent of our obligations and liabilities in respect of our site, the services and material. In particular, there are no conditions, warranties, guarantees, representations or other terms, express or implied, that are binding upon us except as specifically stated in these terms and conditions of website use and our privacy and cookie policy. In so far as is possible we exclude all conditions, warranties, guarantees, representations and other terms which might otherwise be implied by statute or common law other than those expressly stated hereunder.

13.3. Where we exclude liability under these terms and conditions of website use, such exclusion shall include, in so far as is permitted under law, all liability for any loss, damage, costs or expenses including any liability for loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data, loss of goodwill, failure of transformation, communication, computer or other facilities, failure, error or delay in the sending of any notice, communication or instruction via any medium whatsoever, wasted management or office time, and for and other loss or damage of any kind, however arising and whether caused by delict (including negligence), breach of contract or otherwise, even if foreseeable.

13.4. In respect of paid for services or material if we are liable to you for any reason, our liability will be limited to the amount of the price paid by you.

13.5. The exclusions of liability hereunder do not affect our liability for death or personal injury arising from our negligence, nor our liability for fraudulent misrepresentation, nor any other liability which cannot be excluded or limited under applicable law.

## **14. Transfer**



- 14.1. You may not transfer or otherwise dispose of any of your rights or obligations arising under these terms and conditions of website use without our prior written content.
- 14.2. We may sub-license, rent, lease, transfer, assign, charge, sub-contract or otherwise dispose of any of our rights or obligations arising under these terms and conditions of website use at any time.

## **15. General warranties**

- 15.1. You warrant that:
  - 15.1.1. You have the right, power and authority to enter into this agreement and to grant the rights granted to us hereunder; and
  - 15.1.2. You shall comply with all applicable laws, statutes, ordinances and regulations concerning your use of our site and interaction with us.

## **16. Breach**

- 16.1. If you breach any of these terms and conditions of website use, all of your rights under these terms and conditions including your right to use our site, the services and the material will cease immediately.
- 16.2. If we have reason to believe that you have breached these terms and conditions of website use or are likely to breach these terms and conditions of website use we may take action to protect ourselves and third parties from liability, including but not limited to contacting relevant third parties and disclosing information collected from you.
- 16.3. You are responsible for all losses, costs, expenses, claims, demands or other liabilities (including legal fees) incurred by us or any third parties cause by or arising from your breach of these terms and conditions of website use. You indemnify us and shall keep us fully and effectively indemnified on demand from and against all actions, claims, losses, liability, proceedings, damages, costs, expenses, loss of business, loss of profits, loss arising from business interruption and other loss (including legal costs and expenses) suffered or incurred by us and arising directly or indirectly out of your breach of these terms and conditions of website use.

## **17. Circumstances beyond our control**

- 17.1. We will not be liable for any failure to perform any obligation under these terms and conditions of website use due to causes beyond our reasonable control.
- 17.2. These terms and conditions of website use do not confer any rights on any person other than you and us.

## **18. Variation**

- 18.1. We may change the services or material at any time.
- 18.2. Any material may be out of date at any given time, and we are under no obligation to update any material.

18.3. We reserve the right to change these terms and conditions of website use at any time by attending this page or the page upon our site containing our privacy and cookie policy available at [www.elmarketingdesign.com](http://www.elmarketingdesign.com). Any such change in these terms and conditions of website use or our privacy and cookie policy will be effective once reflected in the text of these terms and conditions of website use or our privacy and cookie policy (as appropriate) as published on our site. You undertake to check this page and the page containing our privacy and cookie policy from time to time to take notice of any changes we have made, as they are binding on you.

18.4. Where we have made our services and materials available to you the version of these terms and conditions of website use as effective as of the date of your confirmation shall govern such provision.

## **19. Waiver**

If we fail at any time to insist upon strict performance of any of your obligations under these terms and conditions of website use, or if we fail to exercise any of the rights or remedies to which we are entitled under these terms and conditions of website use, this shall not constitute a waiver of such rights or remedies and shall not relieve you from compliance with such obligations.

## **20. Severability and entire agreement**

20.1. If any term, condition or provision of these terms and conditions of website use is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severed from the remaining terms and conditions which will continue to be valid to the fullest extent permitted by law.

20.2. These terms and conditions of website use, our privacy and cookie policy are the whole agreement between you and us. You acknowledge that you have not entered into the obligations provided for in these terms and conditions of website use in reliance upon any statement, warranty or representation made by us or any other person and you irrevocably and unconditionally waive any rights to claim damages and/or to rescind your obligations hereunder by reason of any misrepresentation (other than a fraudulent misrepresentation) that is not contained in these terms and conditions of website use or our privacy and cookie policy.

## **21. Notices to you**

21.1. We will communicate with you in English only. You agree that we may provide a notice to you by posting it on our site or emailing it to the email address provided by you to us.

21.2. With the exception of amendments to these terms and conditions of website use and our privacy and cookie policy which shall have immediate effect following posting upon our site (except as expressly stated otherwise), such notices shall be deemed to have been received by you on the expiry of a period of twenty four (24) hours from the point in time they are emailed to you.

## **22. Notices to us**

22.1. You may only notify us in connection with any matter arising under these terms and conditions of website use, except where specified otherwise under these terms and conditions of website use, by emailing us at [E.Lacey1@outlook.com](mailto:E.Lacey1@outlook.com).

22.2. Any notification shall be deemed to have been received by us on the expiry of a period of seventy two (72) hours from the point in time they are emailed to us. For the purposes of determining this period all weekends and public holidays in Scotland shall be excluded.

### **23. Applicable law**

The interpretation, construction, effect and enforceability of these terms and conditions of website use are governed by Scots law and by using our site you agree to submit to the non-exclusive jurisdiction of the Scottish courts.

### **Changes to this policy**

We may edit this policy at any time. This Privacy Policy was created on **Thursday 1<sup>st</sup> October 2020**. If we modify this policy the date of modification will be noted in this section of the policy.