

STANDARD TERMS & CONDITIONS

Trading terms and conditions of Thusion Limited (Trading as Bluefusion Creative Internet Solutions)

Quote / Reference Number

These Terms and Conditions shall apply to every order placed by any customer ("Customer") on Thusion Limited of 27 Beechwood Drive, Norwich, NR7 0LN. ("Thusion") for any products and/or hardware and/or software support and consulting services from Thusion. A trading name of Thusion Limited is Bluefusion Creative Internet Solutions. These Terms and Conditions also apply to that trading name.

IT IS AGREED:

1. Contracts

These Terms and conditions constitute the entire agreement of the parties, and all other communications, warranties (whether express or implied) representations, understandings or agreements with respect to the subject matter hereof are specifically excluded. These terms and conditions may be modified only by written agreement signed by Thusion. All orders for products and/or services whether written, verbal or by email will be subject to the terms of these terms and conditions and any Customer terms in any order which are inconsistent with these terms and conditions shall be null and void. Thusion shall have no obligation to accept all or any orders.

2. Supply of Products

2.1 Thusion will supply Customer (subject to the trademark and/or copyright of Thusion and/or its suppliers) any product(s) on the terms set out in these terms and conditions and the terms of any licence agreement supplied with any product.
2.2 Products will be despatched to Customer's premises FOB. From the deposit of products by Thusion at a courier of Customer's choice all risk in the products shall be borne by Customer.

3. Supply of Services

3.1 Thusion will supply services to Customer on a time and materials basis. Charges will be at the agreed hourly and/or daily rate for services and charged at a minimum of one supply unit or part thereof. Some Customers will be offered a fixed price. If the brief changes from the original brief to which the fixed cost was agreed, Thusion reserve the right to review the quote and re-quote as necessary. Work already completed or started will still be chargeable to the Customer.
3.2 Travel expenses will be charged, per mile, at the Inland Revenue authorised mileage rates, to those Customers outside a 20 mile radius of Thusion's HQ or satellite office(s). Remote dial in support service can be offered to some Customers with prior configuration; Please ask for details of this program.
3.3 The provision and availability of internet web site hosting and internet email hosting can be affected by many external factors outside of Thusion's control. Thusion makes no guarantee of the availability or reliability of internet web site hosting or internet email hosting services, nor do we guarantee the inbound or outbound delivery of email and cannot be held liable for any losses due to non delivery. No service level agreements are in place.
3.4 Email may be deleted from mail servers if it has not been collected or accessed for 90 days. Email and web services may be provided on a shared platform with services that are not under the control of Thusion.
3.5 Thusion cannot be held responsible for the delivery or receipt of spam, viruses or other damaging or inappropriate email or web content. It is the customer's responsibility to ensure they have adequate spam and virus detection software installed on their computers and systems.
3.6 Where Thusion provides any form of internet search engine work, or optimisation, we cannot guarantee results, positioning, ranking or inclusion within any search engines.

4. Price and Payment

4.1 Customer will pay Thusion the appropriate purchase price for any product(s) and/or fees for the services as advised by Thusion on the acceptance of any order.
4.2 All sums referred to in Clause 4.1 shall be payable by bank transfer, cash, or cheque within the payment terms set out on invoices provided from Thusion.
4.3 Thusion shall retain title to goods supplied until payment for the goods is received in full.
4.4 Where credit terms are allowed, with prior approval from Thusion and subject to credit checks, terms of payment will be stated clearly on the invoices provided.
4.5 Payments made by customers without credit facilities must provide valid identification of residence for before services can be carried out. This should be a valid drivers licence, insurance certificate or recent utility bill. Mobile phone bills are not acceptable.
4.6 If any payment issued by Customer is dishonoured, Customer shall be liable for all bank charges incurred by Thusion in addition to an administration fee of £15 on each occasion when the payment is presented and returned by the bank.
4.7 Past due amounts owed by Customer shall bear interest at the rate of 2.5% above base rate per month (30% p.a.) in addition to a total outstanding value surcharge of 5%. Customer shall reimburse Thusion for all reasonable costs incurred in the collection of outstanding amounts owed by Customer.
4.8 Purchase prices and fees stated by Thusion are net of VAT and delivery unless stated in advance. The relevant VAT and any future relevant taxes or tariffs not currently in force will be paid to Thusion by Customer (where Thusion is VAT registered). Delivery charges are based on weight of order and shall be the liability of Customer.
4.9 Cancellation of an order or part thereof may result in loss to Thusion for which Customer will be liable.
4.10 Thusion cannot be held responsible for loss of business or money if payment for domain name or hosting renewal is not received prior to the renewal date. Services may be suspended if payment is not received by the renewal date.
4.11 If a project runs longer than 90 days, Thusion reserve right to issue part invoice for work completed.

5. Returns & Warranty Policy

5.1 All good must be checked before they are signed for. All good that are not checked should be signed for and marked as "Unchecked". Do not sign for items that have been damaged in transit.
5.2 All new items are warranted for a maximum period of 12 months (90 days for second user items) from the date of purchase unless expressly stated by Thusion. Manufacturers warranty extending beyond Thusion's warranty requires Customer to deal with the manufacturer directly.
5.3 You have the right to cancel your order before dispatch from Thusion. If you cancel a non-stock item, Thusion reserves the right to charge Customer for the cancellation costs incurred by Thusion. If you cancel your order you will have your payment returned less any costs previously stated. If you have not received your goods you must contact Thusion immediately.
5.4 If a fault develops with a product you must contact us either by phone or email so we can issue a RETURN MERCHANDISE AUTHORISATION (RMA.) No goods will be accepted back without a RMA. In some cases goods may have to be returned directly to the manufacturer or distributor.
5.5 Items must be returned in original packaging, boxes, packing materials, manuals, warranty cards and all other accessories and documentation provided by the manufacturer.
5.6 We strongly recommend that you fully insure your package that you are returning. We suggest the use of a carrier that can provide you a "proof of delivery". Thusion will not be liable for items lost or damaged in transit.
5.7 All shipping back to Thusion is paid for by Customer. Please ensure that the box has your RMA number clearly marked on the outside of the package and on all internal documentation. Proof of purchase and a note of reasons for return must be enclosed. No freight collect or COD on return RMA shipment will be accepted by Thusion.
5.8 Any RMA returned found not to be defective will incur a £15 inspection fee and return freight charge, this will be payable in accordance to Customer payment terms.

6. Copyright and Intellectual Property

6.1 No right title or interest in any copyright, patent or other intellectual property right in any products shall pass to or vest in customer except as may be expressly granted under the terms of any supplemental agreement or software licence agreement supplied with any program.
6.2 Customer shall ensure that all copyright notices on any product shall not be deleted and shall be accurately reproduced on all copies of the same.
6.3 Unless otherwise agreed in writing, all intellectual property rights relating to or connected with the provision of any product or services shall automatically vest in Thusion or its licensors and Customer undertakes to execute such documentation as may be necessary to perfect the title of Thusion or its licensors to such rights.
6.3 Any photographic images produced or taken for a particular order will remain the copyright of Thusion unless otherwise expressed in writing and signed by Thusion. Stock or royalty free images still remain the copyright of their respective owners.
6.4 The design of internet web sites will remain the copyright of Thusion unless otherwise expressed in writing and signed by Thusion. Content supplied by the Customer will remain the copyright of the customer.
6.5 Content provided by the Customer such as copy, text, photos, graphics, logos, video's, code, etc must either belong to the Customer or the Customer must have the right to publish the materials. Thusion will not be held liable if materials published are not the copyright of the Customer. Thusion reserve the right to charge the Customer to remove material that they do not have the rights to use or publish.
6.6 All trademarks are acknowledged.

7. Confidentiality

7.1 "Confidential Information" includes all software and all related documents, plus all information reasonably identified by the disclosing party as confidential.
7.2 No right title or interest in any of the Confidential Information shall pass to the receiving party except as specified in this Agreement.
7.3 Each party shall hold the Confidential Information of the other in strict confidence, will not make any disclosures (including methods or concepts utilised in the Confidential Information) without the express written consent of the other, except to employees or agents to whom disclosure is necessary for the performance of these terms and conditions and who undertake to take all reasonable steps to ensure the confidentiality of all Confidential Information. These restrictions will cease to apply to information which becomes available to the public domain generally, save where that disclosure arises from any default hereunder.
7.4 On the termination of these terms and conditions, on written request, each party shall return within 10 business days all originals and copies of Confidential Information disclosed by the other. Each party's obligations under this Clause 6 shall survive termination of these terms and conditions.

8. Data Protection and Privacy

8.1 As required by the Data Protection Act, we follow strict security measures in the storage of Personal Information to prevent unauthorised access. We will hold all information which we may have access to as a result of the provision of services to you in strict confidence. It is your responsibility to ensure that any information you hold and to which you may grant us access is not obscene or defamatory, and that you hold a current data protection registration in respect of the details of any third parties that you may hold.
8.2 You warrant to us that all software programs installed at your premises are legally licensed. We will not deal with unlicensed software or any information that is offensive or obscene or otherwise illegal and notwithstanding anything to the contrary herein reserve the right to disclose the same to any relevant authority should it come to our attention.

9. Warranty and Limitation of Liability

9.1 Thusion warrants that any services provided under these terms and conditions shall be performed in a professional and workmanlike manner. The warranty relating to any products purchased or licensed hereunder shall be as set out in any license agreement supplied with the product.
9.2 Same as set out in 9.1, Thusion makes no express or implied warranty with respect to any program or goods or services to be supplied by Thusion, including without limitation any implied warranty of merchantability or fitness for a particular purpose Thusion does not warrant that any program will be error free, or that any defects that may exist in any program will be corrected. Licensee acknowledges that Thusion had made no representations regarding warranty or performance or capability.
9.3 In no event shall Thusion be liable for any loss of profits, business, use, data or information or for any incidental, indirect, special or consequential damages whatsoever including but not limited to damages resulting from loss of use, loss of anticipated savings or lost data even if Thusion has been advised, knew, or should have known of the possibility thereof, or for any claim by any third party.
9.4 Customer agrees that Thusion's liability under these terms and conditions in contract or tort or howsoever arising shall not exceed the total amount of fees paid by Customer to Thusion. This limitation shall not apply to death or personal injury caused by Thusion's negligence.
9.5 The operation of this Clause 9 shall survive the termination of these terms and conditions.

10. Term/Termination

10.1 These terms and conditions shall take immediate effect on signature or acceptance of any order or quote by Thusion if earlier, and shall remain in force until terminated as provided below.
10.2 Either party may at its option terminate these terms and conditions by written notice:
10.2.1 Immediately should the other party commit any act of bankruptcy (or any act which in the case of an individual would constitute an act of bankruptcy); or
10.2.2 Where not remediable, on breach by the other party of these terms and conditions; or
10.2.3 Where remediable if any breach by the other party of these terms and conditions is not corrected within 30 days of written notice.
10.3 On expiry or termination of these terms and conditions, each party shall return and made no further use of property, materials and other items (and all copies thereof) belonging to the other.
10.4 Termination of these terms and conditions or any supplemental agreement shall not prejudice either party's accrued rights.

11. General

11.1 These terms and conditions may not be assigned, sublicensed or otherwise transferred without Thusion's prior written consent.
11.2 The failure or delay by either party to enforce any term of these terms and conditions shall not be deemed a waiver of such term.
11.3 These terms and conditions are subject to any governmental laws, orders or other restrictions ("Export Requirements") on the export of products and related information and documents which may be applicable to Thusion or its licensors which may be imposed from time to time by the governments of the United States of America or the United Kingdom. Customer will not commit any act or omission which will result in a breach of any such Export Requirements.
11.4 No delay, failure or default in performance of an obligation hereunder shall constitute a breach of these terms and conditions to the extent caused by force majeure.
11.5 All notices shall be in writing and delivered by hand or sent by first class prepaid mail to the above address of the other party or as otherwise notified and shall be deemed received on the earlier of actual receipt or five days after deposit in the mail.
11.6 These terms and conditions shall be governed by and construed under English law and the courts of England shall have exclusive jurisdiction.

12. Cancellation of services

12.1 Domain names will always be renewed unless written cancellation instruction is received by Thusion 30 days prior to renewal date.
12.2 Web and email hosting and other annual internet services may be automatically renewed unless written cancellation instruction is received 60 days prior to renewal date.

Important: By signing this form you:

- Certify you are responsible for authorising any work detailed and for the payment to be made within agreed terms.
- Accept these terms & conditions & any attached detailed quote or work agreement or conditions and agree for work to commence.
- Understand that should the design or work brief change or the job is ceased after acceptance, Thusion reserve the right to review the quote and / or re-quote as necessary. Work already started or completed will still be chargeable and invoiced to the customer.

Signature

Name

Company name Position in company

Date