

These Terms and Conditions are the standard terms of engagement from Josh Elvin t/as Smart Searcher, a business based at 37 Ifould Crescent, Wokingham, RG40 1LB, Berkshire

These terms confirm our understanding of the project deliverables and any service limitations. If you have any questions, please contact us before signing up at [josh@smartsearcher.co.uk](mailto:josh@smartsearcher.co.uk).

## **Definitions and Interpretations:**

**“Agreement”** means the Agreement between the Parties, which shall be deemed to incorporate these Terms and the terms in any Proposal.

**“Fees”** means the price payable for the services.

**“Parties”** means you and Smart Searcher, and Party shall mean either.

**“Proposal”** means our letter or other communication to you providing the Fees and description of Services, including timeframes and payment schedules where relevant.

**“Services”** means the services detailed in the Proposal supplied to you by Smart Searcher.

**“Smart Searcher/we/us/our”** means Josh Elvin t/a Smart Searcher and includes all employees and agents of Smart Searcher.

**“Writing”** includes electronic mail and comparable means of communication.

**“You/Your”** means the person/company (including their employees, agents, or assigns), whose details may be more particularly set out in the Proposal.

Unless the context requires otherwise, references to the singular include the plural, and masculine includes the feminine and vice versa.

The headings in these Terms are for convenience only and do not affect their interpretation.

## **The Agreement:**

Any Proposal provided by Smart Searcher shall not constitute an offer and is only valid for thirty (30) days from its issue date. We have the right to withdraw a proposal at any time before you have accepted it.

These Terms & Conditions and any Proposal provided by Smart Searcher constitute the entire Agreement between the parties.

Previous dealings between the parties shall not vary or replace these terms or be deemed to do so under any circumstances whatsoever.

Before we can begin work, you are required to sign this Agreement. At this point, an Agreement will exist between the parties upon these Terms (Agreement).

Due to the unique nature of every job, specific terms and conditions may apply to an Agreement. These will be included within Smart Searcher’s Proposal and highlighted to you.

Any illustrations, descriptions, or imagery displayed on Smart Searcher’s website, in marketing materials (both offline and online), catalogues, price lists or others are intended merely to present a general idea of goods or services provided by us. No part of these shall form part of any Agreement.

Smart Searcher may revise any Fees provided under the following circumstances:

- If you materially amend the scope of work to provide additional Services not referenced or detailed within the original specification.
- If the scope of work to be undertaken was unclear when we advised the original Fees.
- If it is discovered that there was a manifest error when the Proposal was prepared.

The parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

These Terms & Conditions apply to the Agreement to the exclusion of any other terms that you may seek to impose or incorporate or which are implied by trade, custom, practice, or course of dealing.

Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing, signed by each Party or an authorised representative of each Party.

### **Description of Services:**

Services specific to this Agreement will be outlined in the Proposal that accompanies these terms and conditions.

In performing SEO services, we shall develop a plan to improve the visibility of your online business profile.

We will perform the Services using our own staff. However, We reserve the right to sub-contract the whole or part of the work.

Any additional work or variations to the proposal will only be undertaken upon acceptance of a separate agreement with all costs to be agreed by both parties, in writing, before work commences.

All IP work undertaken will be our original work and will not infringe or violate copyright or trademark laws.

To successfully conduct your SEO work, you agree to provide the following:

- Administrative/backend access to the website for analysis of content and structure.
- Permission to make changes for the purpose of optimisation and to communicate directly with any third parties.
- Unlimited access to existing website traffic statistics for analysis and tracking purposes.
- Access to an email address (@domain or gmail) for the purposes of requesting links.
- Authorisation to use your pictures, logos, trademarks, web site images, pamphlets, content, etc., for any use as Smart Searcher deems necessary for search engine optimisation purposes.
- If your site lacks textual content, you will provide additional text content in electronic format to create additional or richer web pages. This is in addition to any blogs we agreed to create on your behalf.

Smart Searcher has no control over search engines' policies regarding the type of sites and/or content that they accept now or in the future. Your website may be excluded from any directory or search engine at any time at the sole discretion of the search engine or directory.

Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, we do not guarantee #1 positions or consistent top 10 positions for any particular keyword, phrase, or search term.

Occasionally, search engines will drop listings for no apparent or predictable reason. Often, the listing will reappear without any additional SEO. Should a listing be dropped during the SEO campaign and not reappear within 30 days of campaign completion, we will re-optimise the website/page based on the current policies of the search engine in question.

We cannot guarantee that increased rankings in search engines will result in more enquiries or new business.

We cannot be held responsible if the SEO work is destroyed, in part or in full, knowingly or unknowingly, because you or another party has made changes to your website or content without our prior consultation.

Where Smart Searcher is writing blog posts for you, we will always request your approval before we make them live on your website. However, if we do not hear from you with any feedback or approval, we will assume that it is okay to publish at the end of the month.

### **Payments/Fees:**

The Proposal will outline the Fees and payment dates specific to this Contract. The Fees stated in the Agreement do not include Value Added Tax ("VAT"). All prices are in pounds sterling.

Smart Searcher's preferred method of payment is Direct Debit. Payment is also accepted by bank transfer; bank details are on the invoice.

Unless otherwise agreed in writing or where services are requested to begin sooner, all invoices are payable by the last working day of the month in which they are issued. For clarity, a due date will be shown on the invoice. No work will commence until the first invoice has been paid in full.

Any disbursements incurred by us during the performance of the Services on your behalf will be invoiced separately if they are not included in the original Fees quoted. No disbursements will be incurred without your prior approval.

We allow one (1) set of reasonable revisions for any blog content we create within the quoted fees. Further revisions may incur additional fees. If ANY revision request is deemed to substantially deviate from the original specification of the project, additional charges will apply.

Any queries relating to an invoice must be received within seven (7) days from the invoice date. Until a query is resolved, you remain liable to pay the undisputed part of an invoice within the original timescale.

If payment of the Fees or any part thereof is not made by the due date, Smart Searcher may:

Cancel the Contract or suspend any further provision of services with immediate effect. Any suspension period shall be disregarded for contractual time limits previously agreed to complete the services.

Restrict future payment options to Direct Debit only.

Charge interest at 8% above the Bank of England base rate per annum on the unpaid amount starting from the day the invoice becomes overdue until paid, whether before or after any court judgment. Such interest shall accrue daily.

Charge the Client the recovery costs of any outstanding amount, including legal fees and disbursements.

### **Client Responsibilities:**

You agree to provide a single point of contact who is responsible for communication and has the authority to sign off on the services.

You acknowledge that our ability to provide the services depends upon your full and prompt cooperation and the accuracy and completeness of any information and data you provide. Accordingly, you shall promptly provide us with access to and use of all information, data, and documentation reasonably required by us for the performance of our obligations under the Agreement.

You agree to follow our reasonable instructions and procedures concerning the services and to provide us with all relevant information and materials in an acceptable format as and when requested.

You commit to having an initial briefing/strategy call and are responsible for ensuring that any brief provided is complete and fit for purpose.

You shall be on time for any planned meeting. Should circumstances change and you cannot make a scheduled meeting, we must receive a minimum of 48 hours' notice to rearrange. Any meeting cancelled within 48 hours of the scheduled date and time may incur additional charges.

You agree to respond to the request for information and approval of proofs within five (5) working days of the request. Failure to do so may delay the project timeline or cause us to close the project, with the balance remaining payable immediately.

You grant us a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit, and translate your Materials for this development under this Agreement.

If our performance of any of our obligations in respect of the Services is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation ('**Client Default**'):

- We shall, without limiting our other rights or remedies, have the right to suspend the performance of the work until you remedy the Client Default and to rely on the Client Default to relieve us from the performance of any of our obligations to the extent the Client Default prevents or delays our performance of any of our obligations.
- We shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of our obligations as set out in this clause; and
- You shall reimburse us on written demand for any costs or losses we sustain or incur arising directly or indirectly from the Client Default.

### **Supply of content/design:**

Unless otherwise stipulated in the monthly SEO maintenance, you will be responsible for providing text, graphics, or other design or content as requested.

You guarantee any elements of text, graphics, photos, designs, trademarks, or other artwork provided to us for inclusion on the website above are owned by you or that you have received permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and defend Smart Searcher from any liability or claim arising from the use of such elements.

### **Ownership of Work:**

This is a work-for-hire contract. As such, any copyrights we hold on work conducted for your company or under your company name are passed to you upon full payment for the project.

All original documents obtained from you shall remain your property. However, we may retain documents for our records.

### **Confidential Information:**

In the absence of a separate non-disclosure agreement, this clause applies.

Each Party acknowledges that in connection with this Agreement, it may receive certain confidential or proprietary technical and business information and materials of the other Party ("Confidential Information").

Each Party, their agents, and employers shall hold and maintain in strict confidence all Confidential Information, shall not disclose such Confidential Information to any third party and shall not use any Confidential Information except as may be necessary to perform their obligations under this Agreement except as may be required by a court or governmental authority of competent jurisdiction.

Notwithstanding the preceding, Confidential Information shall not include any information in the public domain or that becomes publicly known through no fault of the receiving Party or is otherwise correctly received by a third party without an obligation of confidentiality.

On the conclusion or termination of the Agreement, both parties shall cease to use all copies of confidential information obtained from the other except in so far as the law requires the information be retained. In this event, it shall be kept until such period is over and, in any event, kept strictly confidential under the provisions of this clause.

#### **Data Protection:**

‘**Data Protection Legislation**’ refers to The Data Protection Act 2018 and any secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced, or updated from time to time.

All personal information that we may collect (including, but not limited to, your name, postal address, email address, and telephone number) will be collected, used, and held according to the provisions of Data Protection Legislation as defined above.

Our privacy policy describes how we collect, use, and store personal information.

In certain circumstances, we may pass your personal information on to credit reference agencies. These agencies are also bound by the above Data Protection Legislation and should use and hold personal information accordingly.

#### **Indemnities and Limitations of Liability:**

Neither Party shall be liable to the other under this Agreement in contract, tort, or otherwise (including negligence), pre-contract or other representations (other than fraudulent or negligent misrepresentations) or otherwise for any loss of business, contracts, profits, or anticipated savings or any indirect or consequential or loss whatsoever.

You agree to indemnify Smart Searcher against any claims, damages, losses, costs, and expenses which they may sustain or incur in relation to any content and materials which the Client provides, such indemnity applying in respect of any claims for any breach of applicable law or regulation or any infringement of any intellectual property rights.

Nothing in this Agreement shall exclude or limit liability for death or personal injury resulting from the negligence of either Party or their servants, agents, or employees.

#### **Termination with Notice:**

For Retained services, either party may terminate this Agreement at any time by giving one (1) month’s written notice to the other party.

For project services, either party may terminate this Agreement by giving the other party seven (7) days’ written notice.

If you terminate this Agreement before the completion of the Services but where the Services have been partially performed, We will be entitled to pro rata payment of the Fees to the date of termination, provided there has been no breach of contract on our part.

You are responsible for ensuring that any access rights granted to Smart Searcher are revoked within seven (7) days of this Agreement’s termination. Failure to do this will constitute a Client Default per the notice above under Customer Responsibilities.

#### **Termination without Notice:**

Either Party may terminate the Agreement immediately by giving written notice to the other Party in the event of any of the following:

- the other Party is dissolved.

- The other Party ceases to conduct all (or substantially all) of their business.
- The other Party is or becomes unable to pay their debts as they fall due.
- The other Party is or becomes insolvent or is declared insolvent; or
- An order is made for the winding up of the other Party, or the other Party passes a resolution for their winding up (other than for a solvent company reorganisation where the resulting entity will assume all the obligations of the other Party under the Agreement); or
- (Where that other Party is an individual) that other Party dies, or because of illness or incapacity, becomes incapable of managing their own affairs or is the subject of a bankruptcy petition or Order.
- The other Party passes a resolution for winding up (other than for solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect.

If either Party breaches a material provision under this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within fourteen (14) days of being given written notice of the breach, the non-defaulting Party may terminate this Agreement immediately and require the defaulting Party to indemnify the non-defaulting Party against all reasonable damages.

All notices of termination should be submitted to the other Party in Writing.

#### **Consequences of Termination:**

On termination of the Agreement for any reason, you shall immediately pay Smart Searcher all outstanding unpaid invoices and interest. In respect of Services supplied but for which no invoice has yet been submitted, we shall submit an invoice, which shall be payable by you immediately on receipt.

At the end of the termination notice period, you are responsible for revoking our access to your website and analytic tools.

The accrued rights and remedies of the parties at termination shall not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

Clauses that expressly or implicitly have effect after termination shall continue in full force and effect.

#### **Force Majeure:**

Smart Searcher will be under no liability if we are unable to carry out any provision of the Agreement for any reason beyond our control, including, but not limited to, staff illness, an act of God, legislation, war, terrorist activity, pandemic, epidemic, fire, flood, drought, power failure, mechanical/machinery failure, lockout, strike or other action taken by employees in contemplation or furtherance of a dispute or owing to any liability to procure material required for the performance of the Agreement.

During the continuance of such contingency, you may, by written notice to us, elect to terminate the Agreement and pay for work done and material used, but subject to that, you shall otherwise accept delivery when available.

#### **Other Important Terms:**

Nothing in this Agreement shall be construed as creating a partnership, joint venture, or agency relationship between the parties. Neither Party shall have the authority or power to bind the other Party or Agreement in the name of or create a liability against the other Party.

If any part of this Agreement is found to be void or unenforceable by any court of competent jurisdiction, such part shall be severed from this Agreement, which will otherwise remain in full force and effect.

These Terms shall remain in force until altered in writing and signed by both parties.

Our failure to enforce any of these Terms and Conditions at any time or for any period shall not be a waiver of them or of the right to enforce such Terms and Conditions on a future occasion.

We may transfer or subcontract their rights and obligations under these Terms to another person or organisation, but this will not affect your rights or our obligations.

You may not assign this Agreement or any rights or obligations under it without our written consent.

Unless otherwise agreed and subject to the then-current prices, these Terms of Business shall apply to any future instructions you give to Web us.

According to the Agreements (Rights of Third Parties) Act 1999, a person not a party to the Agreement has no rights under the Agreement.

**Governing Law and Jurisdiction:**

These terms are governed by the laws of England and Wales, whose courts shall have sole jurisdiction over all matters arising.

**Agreement:**

Your electronic signature confirms your agreement with these terms. This contract is valid from the date of signing until the completion of the project unless both parties agree on any change in writing.

**Smart Searcher**

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*Signature*

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*Print Name & Title*

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*Date*

**The Client**

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*Signature*

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*Print Name & Title*

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*Date*