

Terms and conditions

Please read these Terms and Conditions in full prior to ordering any services from PropertyStream Limited. You should be clear that by ordering any services with PropertyStream Limited, you are agreeing that these Terms and Conditions are binding in full. We would recommend printing a copy for future reference.

In these conditions, unless the context requires otherwise “Confidential Information” means all information designated as such by either party in writing together with all such other information which relates to the business, affairs, products, developments, trade secrets, know-how, personnel and customers of either party or information which may reasonably be regarded as the confidential information of the disclosing party.

“Content” means the text, graphics, photographs, sounds, information, data, music, video or any copyright material publicly available on the Final Output, together with all information pertaining to the Final Output (such as product information in full, product images, shipping details, payment gateway information and all other information PropertyStream Limited deems necessary to complete the Final Output).

“Contract” means a contract, subject to these terms and conditions, for the provision of the Services between PropertyStream Limited and the Customer.

“Customer” means the person, company, firm or body purchasing the Services from PropertyStream Limited.

“Draft Output” means the Services designed or developed by PropertyStream Limited in relation to the Order, prior to final sign-off by the Customer.

“Due Date” means the fourteenth day after the date on which PropertyStream Limited issues an invoice to the Customer.

“Final Output” means the completed output of Services by PropertyStream Limited.

“Hosting Service” means the installation and storage of the Website files, any domains and/or any other associated or expressly agreed files and/or data, mailboxes and email accounts onto a web server on the http.

“Intellectual Property Rights” means patents, trademarks, service marks, database rights, design rights (whether registered or otherwise), applications for any of the foregoing, copyright, know-how, trade or business names, domain names and other similar rights or obligations whether registrable or not and in any territory or jurisdiction (including but not limited to the United Kingdom).

“Ongoing Services” means hosting, retainer or any other Services of an ongoing nature offered by PropertyStream Limited which impose a recurring charge to the Customer.

“Order” means the request of any Services made by the Customer to PropertyStream Limited.

“Order Specification” means the specification for the Services agreed between PropertyStream Limited and the Customer as set out in the Order.

“Services” means the the work and/or services or to be carried out by PropertyStream Limited for the Customer in relation to the Order.

“Website” means the website (being a combination of files and data sources) designed, developed and hosted by PropertyStream Limited for the Customer.

1. GENERAL

1.1 Quotations submitted by PropertyStream Limited shall remain open for acceptance by the Customer for a period of 14 days from the date of quotation, unless otherwise specified. PropertyStream Limited retains the right to withdraw a quotation at any time.

1.2 This Contract will only become binding on acceptance of the Order by signing or countersigning of the Order by PropertyStream Limited.

1.3 This Contract is subject to these conditions. PropertyStream Limited reserves the right to alter these terms from time to time.

1.4 If the Customer is a limited company, the Services are provided upon the condition that the officers of the limited company are personally liable for, and hereby guarantee all sums payable by the Customer to PropertyStream Limited pursuant to this Contract. If the Customer fails to make payment of any sums due within 14 days of a written demand

from PropertyStream Limited, then the officers of the limited company hereby agree to make payment on behalf of the Customer.

1.5 These conditions shall, to the extent applicable, apply to all goods and products in the same way they apply to the Services.

2. OUR OBLIGATIONS

2.1 PropertyStream Limited agrees that it shall:

2.1.1 deliver the Services in co-operation with the Customer, any Customer representative(s), professional advisors and service providers; and

2.1.2 be responsible for arranging and supervising the performance of the Services as stated in the Order.

3. PRICES

3.1 The price for all Services shall, subject to clause 1, be that stated in any relevant quotation and/or confirmed in an Order.

3.2 PropertyStream Limited shall (if applicable) add to the price of the Services, and the Customer shall pay, an amount equal to any VAT and any tax or duty applicable from time to time to the sale or supply of such Services.

4. TERMS OF PAYMENT

4.1 Prices quoted are net and in Pounds Sterling.

4.2 The Customer shall pay PropertyStream Limited a non-refundable deposit of 50% of the value of the Order at the time of submission of the Order, unless prior agreement has been made by PropertyStream Limited. The remaining balance of the Order shall be invoiced on delivery of the Final Output.

4.3 Failure to make payment of an outstanding balance by the Due Date, or otherwise in accordance with this clause 4, may result in the immediate suspension and/or disconnection of any of the Services (at PropertyStream Limited's discretion) without any liability to PropertyStream Limited.

4.4 If the Customer fails to pay an invoice by the Due Date, default interest at the rate specified by the Late Payment of Commercial Debts (Interest) Act 1998 shall be added to such amount for the period from the day after the Due Date until the date of receipt (whether before or after judgment) together with any reasonable and proper amounts incurred by PropertyStream Limited in seeking to recover such late payment from the Customer (including, without limitation, legal fees).

5. DESIGN & DEVELOPMENT

5.1 Where specified in the Order, PropertyStream Limited shall provide design services. PropertyStream Limited agrees to carry out all Services in accordance with Order Specification.

5.2 In the event of a dispute arising regarding the Final Output satisfying the Order Specification, PropertyStream Limited's decision shall be final and binding.

5.3 The Customer understands that PropertyStream Limited's ability to complete the Order is dependant on the full and timely co-operation of the Customer. The Customer therefore agrees to provide PropertyStream Limited with all relevant Content in a timely manner, in a format required by PropertyStream Limited. PropertyStream Limited reserves the right to reject use of any Content provided by the Customer that it deems as inappropriate. PropertyStream Limited's decision on this is final and binding.

5.4 Should any Content provided not be in a suitable format as deemed by PropertyStream Limited, an additional charge will be made for the work involved to convert this. The charge for this is entirely at PropertyStream Limited's discretion.

6. OUTPUT APPROVAL

6.1 It shall be the sole responsibility of the Customer to review and approve the contents (including spelling, names, addresses and phone numbers) of the Final Output. PropertyStream Limited shall have no liability to the Customer for inaccuracies in the Final Output.

6.2 PropertyStream Limited accepts no responsibility for errors or omissions in any bespoke coding once it has been approved by the Customer.

6.3 PropertyStream Limited does not accept any liability for loss (including performance related) or damage, resulting from the Customer's use of any Final Output, including functionality provided by a third party supplier.

6.4 Upon delivery of any Draft Output to the Customer, it will be the customer's right to request alterations to the produced work. Any changes that depart from the Order Specification as deemed by PropertyStream Limited, will be subject to additional charges on a time cost basis. The Customer will be deemed to have accepted the Final Output if the Customer:-

6.4.1 uses any part of the Final Output to offer or provide any goods or services to any third party; or

6.4.2 uses the Final Output other than for test purposes.

6.5 The Customer waives any right to the Final Output (or any version of it) unless they have paid all of PropertyStream Limited's charges in relation to the Services agreed in the Order.

6.6 As the Customer's conduct may impact on PropertyStream Limited's ability to complete the Final Output, the Customer understands that payment may be invoiced for the full value of the Order (or outstanding unpaid amounts), irrespective of work undertaken, in the event that PropertyStream Limited has undertaken all work that is able to in relation to this Contract and the Customer's acts or omissions prevent completion of the Final Output as deemed by

7. RETAINERS

- 7.1 The Customer agrees to pay the sum, as outlined in the retainer Order, on a rolling monthly basis until such a time when the Contract is ended, or as otherwise specified by PropertyStream Limited.
- 7.2 It is at PropertyStream Limited's discretion to determine Services that can be undertaken during a single month of a retainer Contract.
- 7.3 PropertyStream Limited reserves the right to charge for additional Services that fall outside of the agreed retainer hours on a time cost basis.
- 7.4 Unless otherwise specified, no unused hours at the end of a given month shall be carried forward and added as supplementary to the following month.
- 7.5 On cancellation or end of the retainer Contract, all remaining hours will be void with immediate effect.

8. HOSTING SERVICE

- 8.1 Where specified in the Order, PropertyStream Limited shall provide Hosting Services. The Customer shall be solely responsible for the accuracy, legality, currency and compliance of the Website and will be solely liable for false, misleading, inaccurate or infringing information contained or referred to therein.
- 8.2 The Customer acknowledges and accepts that PropertyStream Limited may be required by law to monitor the Website's content and traffic, and if necessary, give evidence of the same together with the use of the logon ID to support or defend any dispute or actionable cause or matter which arises in relation to the same.
- 8.3 PropertyStream Limited does not warrant that Hosting Services will be continuously available (24 x 7 x 365 days), but will use its reasonable endeavours to keep downtime to a minimum; and the Customer agrees that PropertyStream Limited shall have no liability to the Customer for any consequence in the event of any such downtime.
- 8.4 PropertyStream Limited may need to at times, temporarily suspend the Hosting Service for repair, maintenance or improvement and will give the Customer as much notice as is reasonably practicable in the circumstances before doing so. PropertyStream Limited will also restore the Hosting Service as soon as is reasonably practicable.
- 8.5 The Customer accepts the Hosting Services "as is" with any faults or failings and without any representation, warranty or guarantee whatsoever, express or implied, including without limitation any implied warranty of accuracy, completeness, quality, continuity of service, connectivity and fitness for a particular purpose.
- 8.6 The Customer accepts that there is reasonable limits on the hosting offered by PropertyStream Limited and that should server limits be exceeded in any given month, PropertyStream Limited reserves that right to transfer the Website to an alternative server, and to increase its hosting charges accordingly. The Customer will be given 14 days' notice of any such proposed changes to its Hosting Services.
- 8.7 Where Website files are inactive for a period of 90 days or more, PropertyStream Limited reserves the right to delete those files (without any liability to the Customer whatsoever) unless all Hosting charges are fully paid.
- 8.8 Where either party gives notice to transfer any website files, domains or other files away from PropertyStream Limited, PropertyStream Limited shall reserve the right to refuse such a transfer unless or until any sums owing to PropertyStream Limited are paid in full.
- 8.9 PropertyStream Limited shall cease to host or in any way retain any website files, domains or other files or data on behalf of the Customer 30 days following the date upon which PropertyStream Limited delivers such files, domains and/or data to the Customer, irrespective of whether the Customer has procured and/or effected any alternative hosting solutions.

9. WARRANTIES

- 9.1 The Customer warrants that:
- 9.1.1 it has the right to, and permits PropertyStream Limited to include any element of the Content on or in any Website, or has obtained the necessary rights from third parties to do so, and will hold harmless, protect and defend PropertyStream Limited and its sub-contractors from any claim or suit arising from the use of such material furnished by or on behalf of the Customer;
- 9.1.2 it will comply with the Data Protection Act 1998.
- 9.2 The Customer accepts that PropertyStream Limited is under no obligation to monitor or approve the Content provided and accepts that PropertyStream Limited excludes all liability of any kind for all material comprising the same.
- 9.3 PropertyStream Limited warrants that:
- 9.3.1 it shall perform the Services with reasonable skill and care in accordance with the standards observed in the industry for similar services; and
- 9.3.2 it will comply with the Data Protection Act 1998.

10. DATA PROTECTION

- 10.1 The Customer acknowledges and agrees that any personal details, including its name, address, telephone number, email address and payment records may be processed by and/or on behalf of PropertyStream Limited in connection with and/or as a result of the provision of any Services provided by PropertyStream Limited.

11. INTELLECTUAL PROPERTY AND LICENCE

- 11.1 All rights, title in and to the Intellectual Property Rights in the Content belonging to the Customer shall vest exclusively and unconditionally in the Customer.
- 11.2 Subject to the remainder of this clause 3 and payment having been received in full by PropertyStream Limited for the Services provided, all rights, title and interest in and to the Final Output and associated elements to this as deemed by PropertyStream Limited, shall be, as applicable, vested exclusively in the Customer.
- 11.3 All rights, title and interest in and to the Intellectual Property Rights created, developed and subsisting or used by PropertyStream Limited in the Final Output including but not limited to software and coding (including bespoke coding), but excluding the Final Output design(s) shall remain the sole property of PropertyStream Limited.
- 11.4 PropertyStream Limited hereby grants to the Customer a non-exclusive, transferable, worldwide and perpetual licence to use the material comprising PropertyStream Limited's Intellectual Property Rights contained in the Final Output for the sole purpose of operating any Final Output.
- 11.5 The Customer agrees that PropertyStream Limited has the right to use the Customer's name and Intellectual Property rights where necessary to complete the Services as detailed in the Order. This covers referring to them in paperwork, in discussions with third parties to achieve the Services outlined in the Order and in video material.
- 11.6 PropertyStream Limited shall be free to use any ideas, concepts, bespoke coding, techniques or know how acquired during the production of the Final Output for any purpose whatsoever including but not limited to developing, manufacturing and marketing products and other items incorporating such detail unless prior agreement is reached.
- 11.7 Subject to this clause 3, all rights, title and interest in and to any pre-existing Intellectual Property Rights owned, created, developed, subsisting or used by PropertyStream Limited in or in connection with the provision of the Services shall remain the sole property of PropertyStream Limited.

12. TERMINATION

- 12.1 Unless otherwise agreed in writing with PropertyStream Limited, the Customer acknowledges and agrees that the duration of the Contract insofar as it relates to any Ongoing Services will be for the Minimum Term, and in any event, subject thereafter to the notice provisions in this clause 12.
- 12.2 Following expiry of any applicable Minimum Term, either party may terminate the Contract by giving 1 month's written notice.
- 12.3 Either party may terminate the Contract immediately by written notice if the other party is in material breach of the Contract and fails to remedy the breach within 30 days of written notice, requiring it to do so.
- 12.4 Either party may terminate the Contract immediately and without notice if:
- 12.4.1 the other enters into a composition with its creditors;
 - 12.4.2 an order is made for the winding up of the other;
 - 12.4.3 an effective resolution is passed for the winding up of the other (other than for the purpose of amalgamation or reconstruction on terms approved by the first party (such approval not to be unreasonably withheld)); or
 - 12.4.4 the other has a receiver, manager, administrative receiver or administrator appointed in respect of it.
- 12.5 PropertyStream Limited shall be entitled to terminate the Contract immediately upon service of written notice to the Customer if:
- 12.5.1 any invoice remains outstanding for more than 14 days; or
 - 12.5.2 the Customer fails to co-operate and/or provide PropertyStream Limited with clear instructions, or information requested by PropertyStream Limited for more than 30 days; or
 - 12.5.3 PropertyStream Limited considers (at its sole discretion) it reasonable to do so.
- 12.6 Termination of the Contract shall be without prejudice to any other rights or remedies of either party.
- 12.7 Upon termination of this Contract for any reason, the Customer shall grant PropertyStream Limited immediate access to any Final Output (whether hosted by PropertyStream Limited or otherwise) and/or provide any/all such information necessary to facilitate such access for the purpose of disabling any links and/or removing any other software or services which are the subject of paid subscriptions.
- 12.8 If the Customer fails to provide immediate access to the Final Outputs pursuant to clause 12.7 above, the Customer shall indemnify PropertyStream Limited for any associated subscription charges suffered by PropertyStream Limited.
- 12.9 Upon termination of this Contract (howsoever arising), without prejudice to its other rights and remedies, PropertyStream Limited shall be entitled to receive at least, payment of:-
- 12.9.1 all sums which PropertyStream Limited remains contractually obligated to pay to any third parties associated with the Services provided pursuant to this Contract; and
 - 12.9.2 all charges payable by the Customer pursuant to clause 4.

13. DELIVERY AND COMPLETION DATES

- 13.1 Unless specified on the Order, the dates and timescales for carrying out all Services are approximate only. The Customer hereby acknowledges and agrees that time is not of the essence for delivery or performance.
- 13.2 Without prejudice to clause 15, PropertyStream Limited will not be liable in any circumstance for the consequences of any delay in delivery or performance or failure to deliver or perform.
- 13.3 No delay shall entitle the Customer to reject any delivery or performance or any other Order from the Customer, or to repudiate the Contract or the Order.

14. INDEMNITY AND LIMITATION OF LIABILITY

- 14.1 PropertyStream Limited shall not be liable to the Customer for any charges, adjustments, loss or damage whatsoever or howsoever caused by the Customer or any third party (whether or not authorised by the Customer), accessing the Final Output. In the event that the Customer requires PropertyStream Limited to undertake work to rectify or restore a Final Output following changes or damage made or caused by the Customer or any third party (such work including, but not being limited to restoring back-ups or fixing functionality), the Customer hereby agrees to be liable for PropertyStream Limited's reasonable charges for such work.
- 14.2 The Customer shall indemnify PropertyStream Limited against any loss, damage, cost or expense (including reasonable legal fees and expenses) PropertyStream Limited may suffer or incur as a result of:
- 14.2.1 any act, omission, neglect or default of the Customer, its agents, or employees;
 - 14.2.2 any claim arising as a result of a breach of any of the warranties given by the Customer under this Contract;
 - 14.2.3 work done in accordance with the Customer's instructions in connection with hosting, including but not limited to framing or linking to third parties' websites.
- 14.3 PropertyStream Limited will not be liable to the Customer in contract, tort (including but not limited to negligence), misrepresentation or otherwise for any economic loss of any kind (including but not limited to loss of profit, business, contracts, revenue or anticipated savings), any damage to the Customer's reputation or goodwill or any other special, indirect or consequential loss (whatsoever and howsoever caused) which arises out of or in connection with the Contract.
- 14.4 PropertyStream Limited will not be liable to the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with Hosting Services provided by PropertyStream Limited, any application, support or otherwise, or any action or inaction attributable to PropertyStream Limited's subcontractors and/or service providers, except to the extent which is unlawful to exclude such liability.
- 14.5 Nothing in this Contract shall exclude or limit the liability of PropertyStream Limited for fraudulent misrepresentation or for any death or personal injury caused by PropertyStream Limited's negligence.
- 14.6 The Customer acknowledges and agrees that PropertyStream Limited's total liability in respect of the warranty provided under clause 9.3 shall be limited to re-performance of the relevant Services or parts thereof or a refund of any charges paid by the Customer to PropertyStream Limited in relation to the relevant Services in dispute in the 12 months preceding any claim.
- 14.7 Without prejudice to clause 14.3 above, the Customer acknowledges and agrees that PropertyStream Limited's total liability in contract, tort (including but not limited to negligence), misrepresentation or otherwise arising in connection with the performance or contemplated performance of the Contract shall be limited to the amount paid by the Customer pursuant to the relevant Contract.
- 14.8 Neither party shall be liable for any failure in the performance of any of its obligations under the Contract caused by factors beyond its reasonable control.

15. CONFIDENTIALITY

- 15.1 Each party agrees and undertakes that it will hold in complete confidence any Confidential Information disclosed to it, and will not disclose it in whole or in part at any time to any third party, nor use any Confidential Information for any purpose other than the performance of its obligations under the Contract. This provision shall survive the termination of the Contract for any reason for a period of 5 years commencing immediately on the date of such termination.
- 15.2 The obligations set out in this clause 15 shall not apply to any Confidential Information which:
- 15.2.1 at or prior to the time of disclosure was known to the receiving party as evidenced in writing, except to the extent that such information was unlawfully appropriated;
 - 15.2.2 at or after the time of disclosure becomes generally available to the public other than through any act or omission on the part of the receiving party;
 - 15.2.3 is received from a third party who was free to make such disclosure without breaching any legal obligation;
 - 15.2.4 is independently developed by the receiving party; or
 - 15.2.5 is required to be disclosed by law, court order or request by any government or regulatory authority.

16. FORCE MAJEURE

- 16.1 PropertyStream Limited shall not be liable for failure to perform the Services if such failure is as a result of any act beyond its reasonable control including, without limitation, fire, flood, earthquake, storm, hurricane or other natural disaster, war, civil unrest, terrorist activities, nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout or interruption or failure of electricity or telephone service.

17. ASSIGNMENT AND SUBCONTRACTING

- 17.1 None of the rights or obligations of the Customer under the Contract may be assigned or transferred in whole or in part without the prior written consent of PropertyStream Limited.
- 17.2 PropertyStream Limited shall be entitled to sub-contract any work relating to the Contract without obtaining the consent of, or giving notice to the Customer.
- 17.3 PropertyStream Limited shall be free to assign its rights in the Contract to any third party without giving prior notice to the Customer.

18. INVALIDITY

18.1 If any provision (or part of a provision) of this Contract is found by any court or administrative body of a competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give to the commercial intention of the parties.

19. ENTIRE AGREEMENT

19.1 The Customer acknowledges that it has not been induced to enter into the Contract by any representation or warranty other than those contained within this Contract; and having negotiated freely, agrees that it shall have no remedies in respect of any representation or warranty that is not set out in this Contract, except in the case of fraud.

20. LAW AND JURISDICTION

20.1 A person who is not party to this Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.