



TERMS AND CONDITIONS

We value our Customers and are constantly striving to provide the best possible service and a positive internet/website experience.

This agreement represents the understanding and agreement between Vivant and the Client.

These terms and conditions ("the terms") govern every contract made between Vivant for the supply of goods and services to any person, firm or company ("the client").

The terms prevail over any written terms and conditions of the client.

Any variation to the terms must be agreed in writing by Vivant.

All contracts between Vivant and the client will be governed by South African law and the parties agree to submit to the exclusive jurisdiction of the South African courts.

Design, graphics, illustration:

1. Pricing and Payment terms:

- The client will pay Vivant the fixed fee or current price list charge – whichever is agreed at the time of instruction.
- A deposit of 70% of the final quotation/estimate will be charged on acceptance of quotation/estimate, to commence work.
- All preliminary work carried out at The Client's request, whether experimentally or otherwise, shall be charged to The Client.
- Vivant will invoice the client at 28 days if feedback is not received to progress the clients project.
- Invoices from Vivant to the client for supply of goods or services should be paid in full on receipt of invoice.
- Design, graphics, illustration and typesetting produced by Vivant remain the intellectual property of Vivant until full and final payment has been received.
- Invoices from Vivant to the client for services rendered should be paid in full on receipt of invoice by Internet Banking or Cash - final files will NOT be released until payment confirmation has been received.
- If the client does not have a credit account with Vivant, goods or services must be paid for on collection or delivery of the completed job. Payment can be made by cheque or cash.
- The Client agrees that interest on any monies due to Vivant shall be subject to the maximum legal interest rate prescribed by law 7 days from the date of the order or the date they fall due.
- Vivant reserves the right (without disclosing a reason) to demand payment for work on collection at any time.
- The client will pay Vivant any expenses incurred by in connection with the recovery of monies outstanding (including legal costs on an indemnity basis).

2. Ordering:

- Orders for work must be given in writing to Vivant by the client.
- Notwithstanding orders in writing, if Vivant accepts a verbal order from the client, Vivant will not be held responsible for any mistakes (made by either party) arising from that verbal order.
- Vivant reserves the right to refuse to accept any order.

3. Quotations:

- All quotations given by Vivant will be valid for 30 days from the date of quotation.
- If the clients' final order changes from the original specification made for the quotation, Vivant reserves the right to vary the quotation.

4. Turnaround times:

- Turnaround times which are quoted in the price list and web site are normal target times only and Vivant accepts no liability for failure to meet these times, but will use its best endeavours to do so.

5. Changes to submitted content:

- Vivant will make minor changes to the content submitted upon review of the final draft by the Customer. Substantial changes and complete text changes that are not due to any error on Vivant's part will be billed at the standard design rate. Change request form must be completed on all change. Client will be invoiced based on change request form completed. If not complete change via email will be suitable for invoicing.

6. Changes on initial design:

- Additional charges will apply should information provided changes more than twice during the design phase of a project.

7. Image sizes:

- Some transparencies and/or negatives do not have the exact same proportions as certain paper sizes. If this is the case, the client must inform Vivant if they require the full image area or if image should be cropped to fill the desired print size. If no instructions are given, Vivant will print the full frame.

8. Print finish:

- Unless stated by the client, Vivant will decide, at its sole discretion, which print finish to use (either semi-matt or gloss).

9. ADSL data transmission:

- Vivant will not accept responsibility for loss of earnings to the client for untransmissible ADSL data. It is solely the responsibility of the client to ensure the receiving end of the ADSL transmission has an active compatible computer. It is also the responsibility of the client to ensure the correct ADSL address is given to Vivant.

10. Colour balancing:

- Vivant will, if requested by the client, scan images to a colour balance provided by the client by way of reference prints or Polaroid.
- If no such request or reference material is provided by the client, Vivant will scan and/or print images using his own 'judgement' for colour balancing.

11. Uncollected work:

- If any items of work including prints and original files belonging to a client are not collected after 12 months of the requested work being done, Vivant reserves the right to dispose of such material.

12. Copyright and moral rights:

- Vivant claims no copyright in material submitted to him for the purposes of fulfilling the clients' instruction.
- The client warrants that the client owns or controls all rights, has obtained all copyright, or has permissions, consents and waivers that as are now and hereafter required for all copying, processing, scanning, printing and manipulation to be undertaken by Vivant.
- The client also warrants that no copyright or moral rights will be infringed by Vivant carrying out the requested work.
- The client agrees to indemnify Vivant against all losses, damages, claims or expenses which Vivant may incur by virtue of any breach of the above warranties.

13. Liability

- The client must contact Vivant concerning details of an invoice within 7 days of the date of the invoice.
- Vivant liability to the client or any other party for the loss including theft, or destruction or damage to any materials provided by the client which are deposited with Vivant for whatever reason;
- Will be limited to the replacement cost of the actual material and;
- Vivant will not be liable for the cost of reshooting or reprinting the material contained on the material and;



- Vivant will not be liable for any loss or damage to the client or any other party including loss of income and;
- It is the client's responsibility to insure against such loss and damage.
- Vivant will not be liable for failing to complete any contract between Vivant and the client due to circumstances beyond Vivant's control including loss of power supply, machine breakdown, and loss of materials, fire, storm, flood, act of god, war, civil disturbance or terrorism.

Web Development:

1. Pricing and Payment terms:

- Strict payment terms apply: Any account whose payment status is not current as of the start of the next month is deemed late.

1.1. New Clients:

- Payment is strictly Cash on Delivery (COD) unless otherwise agreed.

1.2. New Web Development:

- 70% deposit upfront and the balance is paid after completion. (Unless by prior arrangement.)
- Setup fees and the first months hosting are to be paid in advance.
- Where projects require work to take place over several months, progress payments will be required according to the cycle specified on the cost estimate for the project.
- Development, where required, will not be undertaken without the client signing off all relevant proof and cost estimates, as appropriate or required.

NOTE: Copyright and intellectual property on all material and documentation produced as part of a project remain vested with Vivant until payment for the work in question has been received timeously and in full. Thereafter, Vivant relinquishes copyright and intellectual property to the client company. Any use of material held under copyright by Vivant is in violation of international copyright and intellectual property law.

1.3. Monthly website hosting:

- Generally, Customers are given a 7-day grace period after which the users account may be suspended.
- Hosting fees are not refundable should you decide to move to another provider within the hosting term paid for.

1.4. Suspended accounts:

- Re-activation of suspended accounts incurs a reactivation fee of R395.00
- Vivant will not be held responsible for any damages, losses, or claims as a result of a client's Internet service being suspended for non-payment.

1.5. Service Charges:

Vivant reserves the right to adjust service charges at their sole discretion. Existing subscribers will receive 30 days written notice relating to price adjustments for any such services offered.

The Customer hereby agrees to pay any and all legal fees, and related expenses incurred by Vivant in the collection of any outstanding amount due.

2. Cost Estimates:

Each cost estimate is valid for 15 (fifteen) days from the date on which it is produced, after which it may become subject to changes in specifications and/or pricing.

The cost estimate must be signed off by an authorised officer of the client company and a copy sent to Vivant before work can commence on the project. Alternatively, an official company work order will be required before work can commence on the project.

NOTE: Cost estimates do not include any meetings or travel and will be charged for accordingly.

- A signed off cost estimate or official company order constitutes a contract between the Customer and Vivant for the production of the outputs detailed on the estimate.
- Projects are undertaken and completed as per the specifications and the costing parameters detailed in the cost estimate. Changes to the brief, client amendments and additional elements required that are not provided for in the cost estimate will be charged for accordingly.
- Where appropriate, additional cost estimates will be generated for work of this nature.

3. Changes to submitted content:

- Vivant will make minor changes to the content submitted upon review of the final draft by the Customer. Substantial changes and complete text changes that are not due to any error on Vivant's part will be billed at the standard development rate. Change request form must be completed.

4. Changes on initial website design:

- Additional charges will apply should information provided changes more than twice during the development phase of a project. Change request form must be completed.

5. Domain Names:

- Domain names are renewed every year. Customers failing to pay their domain registration fees will be at risk of losing their domain. We take no responsibility for you losing a domain name. Domain names will be suspended if annual hosting fees are not paid within the specified time limit.

6. Hosting contract (for subscribed CUSTOMERS):

- We reserve the right to terminate hosting, email and other services should there be payment delays. Prices may vary depending on the technology used for each hosting package. A calendar months' notice is required for cancellation of hosting services, supplied in writing.

Verbal cancellations are not accepted.

The Customer agrees that unless he/she notifies Vivant of his/her desire to cancel any or all services received, those services will be billed on a recurring basis.

7. Ongoing maintenance (for subscribed Customers):

- We require at least 3 working days' notice for changes (Changes should be supplied in writing, preferably email). This contract aims to keep your website up-to-date with information (day to day changes and small additions) and does not include major changes, structure changes (changing templates, main navigation etc.), adding advanced features or redesigns. We will make changes that are within 'reasonable' limits. Notice will be given if maintenance costs change. One months' notice is required for cancellation of service, supplied in writing.

8. Website hosting:

- We use professional world-class ISP's. Server uptime is at least 99%. We cannot be held responsible or legally accountable for loss of email, loss of business or website downtime due to hosting problems or countrywide network problems. Planned or unplanned server or network maintenance may be performed at any time without prior warning.

9. Spam/Unsolicited Mass E-mail:

- The sending of unsolicited commercial email (SPAM) through our web servers promoting any web site, or via third party web servers promoting a web site hosted by us, can result in the suspension or termination of the client's web hosting account, without refund. Mailing lists may be operated as long as individuals choose to subscribe to receive mailings via clear 'opt in' methods and a strict removal procedure is published in all mailings. 'Safe lists' and other advertising related mailing lists might not be operated. Any complaints received are taken seriously and will be investigated.



10. Traffic Usage:

· There are no limits to the traffic each Customer has on their website or emails.

11. Image licenses:

· Professional images included in our web packages need to be selected from our high quality image library, alternative image libraries may be used at additional costs to Customer. Image license costs may change depending on currency fluctuations or other factors.

12. Copyright:

· All content including text, images and animations supplied by the Customer for use in the web design or graphic design projects must be thoroughly checked for copyright infringement. Legally, the Customer is entirely responsible for all content provided. By commissioning a project you are indicating full acceptance of these terms and conditions.

13. Web Marketing:

· Vivant provide a number of services to submit web sites to search engines. This agreement recognizes that the nature of search engine acceptance changes on a weekly basis. Vivant shall not give any guarantees on the outcome of promotion of a domain name and web site to search engines. If a web site does not appear in a search engine for any reason the company will in no way be held responsible.

· The Customer agrees that Vivant does not own nor control the search engines or directories. The Customer accepts should a search engine refuse to include the Customer website for inclusion, regardless of any fees paid for submission, no action will be taken against Vivant.

14. General terms:

Vivant shall not be liable in any way whatsoever for:

- Any errors or omissions in the contents of any website which it has designed.
- Any damages to or viruses that may infect a site visitor's computer equipment, software, data or other property which result from a site visitor's access to, use of or browsing in any site designed by Vivant.
- Any damages which result from the downloading of material, data, text, images, video or audio from any site designed by Vivant.
- Any content in any site linked to a site designed by Vivant and any resulting damages from a site visitor's access to any such linked site – site visitor's link to any other such sites at their own risk.
- Each individual web site owner reserves the exclusive right to alter its site content in any way, at any time and for any reason without prior notification carrying no liability for any consequences of such changes.

Should a Customer breach any of the terms and conditions contained herein, including but not specifically limited to the payment terms, Vivant has the right (solely at Vivant's discretion) to immediately demand payment of the full amount owing and demand compliance forthwith with all the terms and conditions, alternatively to terminate the agreement and services forthwith, in either instance without in any way derogating from any common law and contractual rights which Vivant may have.

We (Company Name) _____ hereby accept the terms & conditions.

PRINT NAME

DATE

I have read and accept the terms and conditions