

## **MaltaCode Terms and Conditions**

### **Definitions:**

The Client: The company or individual requesting the services of MaltaCode.

MaltaCode: Primary designer/site/software owner & employees or affiliates.

### **1. General**

- 1.1. MaltaCode will carry out work only where an agreement is provided either by email, telephone, postal mail. MaltaCode will carry out work only for clients who are 18 years of age or above. An 'order' is deemed to be a written or verbal contract between MaltaCode and the client, this includes telephone and email agreements.
- 1.2. Our software and web sites are built to help organise and augment your organisation's activities. You may use MaltaCode owned material and software for commercial use provided you abide by the following:
  - 1.2.1. act within the copyright laws of the Republic of Malta as well as any legislation of the European Community, or of the territory in which MaltaCode originally published the material;
  - 1.2.2. use the software without any adjustment which would alter its meaning or bring MaltaCode, its representatives, agents, clients, contributors or the subject of the material or any other person or entity into disrepute;
- 1.3. MaltaCode incorporates electronic "watermarking" into published material. MaltaCode reserves the right to pursue any infringement in the Courts of the Republic of Malta or of the country where MaltaCode suffers damage or you are likely to derive benefit, at the discretion of MaltaCode.
- 1.4. MaltaCode's hardware and software repair services have limited liability. MaltaCode will not be held liable for any damages on hardware that is given to us for repairs or re-installation. The client is responsible for the data on the storage media of computers, tablets and phone or other hardware. MaltaCode will not be liable for any data loss of any kind. We will inform the client on a regular basis what we do and what we find in hardware and/or software that is causing the trouble the client has told MaltaCode and MaltaCode will try to fix it in the best possible way according to their knowledge. If MaltaCode causes damage to the clients' goods, and this can be proven with hard evidence, MaltaCode will replace that part of the hardware/software at its own costs. Incomplete information on hand-over of the hardware/software is at full risk for the client and the clients cannot claim anything from MaltaCode. MaltaCode reserves the right to keep/sell the clients goods after a period of three months if the client neglects or refuses to pay the agreed price for the services MaltaCode has preformed at collection.

### **2. Trademarks and Trade names**

- 2.1. All goodwill associated with the use of the software or names, including code, logos, style, format and graphical images, shall be sole to the benefit of MaltaCode and you shall not assert any claim or ownership to any trade names or marks or to the goodwill or reputation thereof. All other trademarks, brand names, products and company names all over which are cited on this

software are the trademarks and/or property of their respective owners.

- 2.2. If you are unsure of the legality of your re-use of software and/or web sites owned or managed by MaltaCode you should contact MaltaCode on [info@maltacode.com](mailto:info@maltacode.com).

### 3. **Software Development & Website Design**

- 3.1. Whilst with every endeavour we strive to ensure that the website and any scripts or programs are free of errors, MaltaCode cannot accept responsibility for any losses incurred due to malfunction, contents or the website being compromised.
- 3.2. The website, graphics and any programming code remain the property of MaltaCode until all outstanding accounts are paid in full.
- 3.3. Any programming code remains the property of MaltaCode unless another copyright holder is credited for the relevant locations.
- 3.4. Any scripts, CGI applications, PHP scripts, FileMaker application or software (unless specifically agreed) written by MaltaCode remain the copyright of MaltaCode and may only be commercially reproduced or resold with the permission of MaltaCode.
- 3.5. MaltaCode cannot be held responsible for any copyright infringements caused by materials submitted by the client. We reserve the right to refuse any plagiarised material unless adequate proof is given of permission to use such material
- 3.6. Any additions to the brief will be carried out at the discretion of MaltaCode and where no charge is made by MaltaCode for such additions, MaltaCode accepts no responsibility to ensure such additions are error-free and reserve the right to charge a fee as suitable for any correction to these or further additions.
- 3.7. The client agrees to make available as soon as is reasonably possible to MaltaCode all materials required to complete the site or custom software to the agreed standard and within the set deadline.
- 3.8. MaltaCode will not be liable for costs incurred, compensation or loss of earnings and/or data due to the failure to meet agreed deadlines.
- 3.9. MaltaCode will not be liable or become involved in any disputes between the site and/or 3rd party software owners and their clients and cannot be held responsible for any wrongdoing on the part of the site and/or 3rd party software owner.
- 3.10. MaltaCode will not be liable for any costs incurred, compensation or loss of earnings and/or data due to the work carried out on behalf of the client or any of the clients appointed agents.
- 3.11. MaltaCode will not be liable for any costs incurred, compensation or loss of earnings and/or data due to the unavailability of the site, its servers, software or any material provided by its agents.
- 3.12. A deposit of 50% is required for any project before any development and/or design work will be carried out.

- 3.13. Once a website and/or software has been designed and completed the final balance of payment is then due in accordance with our payment terms. There are no exceptions to this, i.e. If the client decides they no longer want the site or the software, as they have commissioned the work and paid a deposit they are still obliged to pay for the work that has been done. Non payment will result in legal action being taken if necessary.

#### **4. Database, Application and E-Commerce Development**

- 4.1. MaltaCode cannot take responsibility for any losses incurred by the use of any software created for the client. Whilst the utmost care has been taken to ensure products are problem-free and accurate, the ultimate responsibility lies with the client in ensuring that all software is functioning correctly before use.
- 4.2. Any scripts, CGI applications or software (unless specifically agreed) written by MaltaCode remain the copyright of MaltaCode and may only be commercially reproduced or resold with the permission of MaltaCode.
- 4.3. Where applications or sites are developed on servers not recommended by MaltaCode, the client is expected to provide or seek any information, additional software, support or co-operation pertaining to the server required in order for the application to be correctly developed. Where large applications are to be developed, it is the client's responsibility to provide a suitable testing environment which is identical to the final production environment.
- 4.4. The client is expected to fully test any application or programming relating to a site or application developed by MaltaCode before being made generally available for use. Where "bugs", errors or other issues are found after the site is live, MaltaCode will endeavour (but is not obliged to) to correct these issues to meet the standards of function outlined in the brief.

#### **5. Website Hosting**

- 5.1. We offer to host services by buying a managed dedicated server from FlexWebHosting. They have great customer and technical support and service guarantee for an annual average of 99% network availability for their infrastructure. MaltaCode gives support for your websites hosted on our hosting servers with the backup of FlexWebHosting.
- 5.2. MaltaCode recommends companies to provide internet, hosting services, VPN connections and/or software, no guarantees can be made as to the availability or interruption of this service by MaltaCode. Furthermore, MaltaCode cannot accept liability for losses caused by the unavailability, malfunction interruption of this service, or for loss of turnover, sales, revenue, profits of indirect, consequential or special loss.

#### **6. Hosting Payment Policy & Billing Procedures**

- 6.1. All accounts are set up on a prepaid basis. We accept payments via Cash, Check, PayPal, and Bank Transfers. Setup fees are charged for all new accounts that are paid on a yearly basis and major account changes and are non-refundable. All pricing is guaranteed for the term of prepayment. MaltaCode reserves the right to change prices at any time. Payment is due each year or period following the date the account was established. If 15 days have passed and payment has not been posted, the account will be suspended until further notice. The customer is responsible for all money owed on the account from the time it was established to the time

that the customer notifies MaltaCode to request termination of services.

## 7. Payment of Accounts

- 7.1. A deposit of 50% is required from any new client before any work is initiated. It is MaltaCode's policy that any outstanding accounts for work carried out by MaltaCode or its affiliates are required to be paid in full, no later than 15 days from the date of the invoice unless a prior arrangement is made with MaltaCode.
- 7.2. Once a deposit is paid and work is completed you are obliged to pay the balance of payment in full. We will contact clients via email and telephone to remind them of such payments if they are not received when due.
- 7.3. If accounts are not settled or MaltaCode have not been contacted regarding the delay, access to the related website and/or software may be denied and web pages removed, we will then pass such cases to the courts of the Republic of Malta to pursue payment, non-payment can result in court judgements being affecting the client's credit rating.
- 7.4. Following consistent non-payment of an invoice our debt collection agency will contact the client in question, with the purpose of taking the matter further and if need be to seek payment through legal means, and if necessary court summons.

## 8. Passing of Rights

- 8.1. Once all amounts due to us from you are paid and cleared you are assigned the rights to use, as applicable, the products and services, including, the web site and/or software which includes the text, scripts, layouts, graphics, animation, audio components and digital components contained within the finished web site and/or software, in accordance with these terms and conditions, the Project Agreement and any applicable agreement, terms or licence but no rights of ownership are conveyed unless specifically stated in the Project Contract.
- 8.2. No such rights as described in above will pass until all amounts due to us from you are paid. This means that we will have a lien over any service, products, data or information. If you have not paid the invoice in full within 14 days from the date of the invoice you agree that you will forfeit your rights.
- 8.3. The rights to photographs, graphics and any third party items such as source code, always remain the property of their respective owners.
- 8.4. Unless you have our specific written agreement in the Project Contract, all products, including Content Management Systems, interfaces, navigational devices, menus, menu structures or arrangements, icons, help, all operational instructions, scripts, CGI applications, software, programming/source code, and all other components of any source or object computer code that comprises the Website, all literal and non-literal expressions of ideas that operate, cause, create, direct, manipulate, access, or otherwise affect the Content and design elements used or developed and all software, and our products and results of our services remain our property and we retain full ownership rights and all intellectual property rights. You specifically agree not to do anything that may in any way infringe upon or undermine our rights, title, or interest in the Website or our products and services. This includes, but is not limited to, any sale, transfer or gift of the whole or of any part of any item, data or anything whatsoever that we own. You fully

understand that we may reproduce, reuse, develop and use in any other way we choose, anything within our ownership.

## 9. **Complaints Procedure**

### 9.1. **Informal procedure**

- 9.1.1. Anyone who experiences a problem with their software and/or web service provided by MaltaCode should raise the matter directly using our online contact form/customer area to do so, giving sufficient information to locate the material (such as a URL or in-application location) and clearly outlining the grounds for complaint.
- 9.1.2. MaltaCode will approach the individual responsible for the material in question in an attempt to resolve the matter to the satisfaction of the complainant.

### 9.2. **Formal complaints procedure**

- 9.2.1. The formal complaints procedure should only be used where the complainant feels that the nature of the complaint is too serious to be dealt with informally, or where a satisfactory conclusion has not been reached after following the informal procedure.
- 9.2.2. A formal complaint should be made in writing to MaltaCode, who will acknowledge receipt and ensure that the matter is looked into as soon as possible.
- 9.2.3. An initial response to any complaint can be expected within seven days of its receipt; a full and considered response to the complaint should be completed within 30 days and any subsequent remedy implemented with minimal delay.