

NETWORX MARKETING LTD www.net-worx.co.uk TERMS AND CONDITIONS

This document, the order form, the payment schedule and all other documentation provided by Smart Traffic clearly identify and state the terms and conditions on which Networx Marketing Ltd supply any of the SEO services to their clients or resellers in their current product portfolio, whether the products are listed on the website www.net-worx.co.uk or not.

Clients should understand that by signing an order form and ordering any one of the Networx Marketing Ltd products or services, they agree to be bound by these terms and conditions, for that reason, please read this document carefully before confirming your order and request confirmation on any questions that you have prior to your order being signed. Networx Marketing Ltd recommends that you print a copy of these terms and conditions for your future reference.

You confirm that you accept these terms and conditions by signing the order form provided by your Networx Marketing Ltd Account Manager and returning it by either email to sales@net-worx.co.uk or by faxing it to 0870 298 9551 or by posting it to:

Networx Marketing Ltd
Unit 9a
Great Western Railway Yard
St Agnes
Cornwall
TR5 0PD

Please understand that if you refuse to accept these terms and conditions, and a compromise cannot be successfully agreed between our legal representatives then Networx Marketing Ltd reserve the right to not accept an order from you.

www.net-worx.co.uk is a website operated by Networx Marketing Ltd (company no. 06672607 VAT number 970 0870 20) (**We, Us or**) of Unit 9A, Great Western Railway Yard, St Agnes, Truro, TR5 0PD.

1. Interpretation and Definitions

1.1 In this agreement the following terms shall have the respective meanings assigned to them:

"**Agreement**" means these terms and conditions, the payment terms, the order form, the reseller agreement and the NDA. In the event of any conflict between the terms of this agreement, the details of the order form shall prevail, except for payment terms where the payment schedule shall prevail;

"**The customer**" means the company its employees, agents, representatives and sub contractors, to whom the product or service is provided as set out on the order form;

"**Commencement Date**" means the date of commencement of the Services as set out on the order form;

"**Fees**" means the amounts payable by the Customer for the Services provided by Networx Marketing Ltd as set out in the Order Form;

"**Force Majeure**" means any act, event, omission or accident beyond reasonable control including but not limited to Acts of God, fire, lightning, explosion, flood, extreme weather conditions, outbreak of hostilities (whether war be declared or not), riot, civil disorder or commotion, acts of terrorism, industrial disputes or acts or defaults of any local or central Government or other competent authority;

"**Initial Term**" unless otherwise stated on the Order Form [one] year from the Commencement Date

"**Order Form**" means the customers agreed schedule for the provision of Services forming part of these terms and conditions;

"**Payment Schedule**" means the agreed schedule of payments that the customer shall make to Networx Marketing Ltd for the Services forming part of these terms and conditions;

The "**product or service**" means the services to be provided by Networx Marketing Ltd as specified in the order form;

1.2 The headings do not affect the interpretation of the Agreement.

1.3 Any reference to a party's employees includes its agents and sub-contractors.

2. Application of the Terms

2.1 These terms and conditions shall apply to and be incorporated in the Agreement.

2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Agreement shall be binding without exception, unless agreement in writing and signed by a duly authorised representative of Networkx Marketing Ltd.

2.3 If the customer wishes to vary any part of the Agreement, the request shall be sent in writing to Smart Traffic Ltd prior to the order form being signed. Networkx Marketing Ltd shall respond to the customer within 5 working days as to whether it is prepared to agree to the change and, if so, details of the cost of the change, any effect on any other part of the Agreement including any change in timescales. The Customer may accept such proposal within such time as Networkx Marketing Ltd may specify or, if none, within 7 days, failing which it shall be deemed rejected. Pending acceptance or rejection Networkx Marketing Ltd may continue to perform the Agreement without reference to the request.

3. Contractual terms

3.1 Any quotation is valid for a period of 7 days only, unless otherwise specified, and Networkx Marketing Ltd may withdraw any part of a quote, at any time by notifying the customer. Any quotation is given on the basis that no contract shall come into existence until we receive an acknowledgement of order in accordance with clause

3.3.

3.2 Each order or acceptance of a quotation for products or services by the customer shall be deemed to be an offer by the customer subject to these conditions. The customer shall ensure that its order is complete and accurate.

3.3 No order for products and services placed by the customer shall be deemed to be accepted by Smart Traffic until a written acknowledgement and payment (including email) is received by Networkx Marketing Ltds, or, if earlier, when Networkx Marketing Ltd begins to provide the products and services to the customer.

3.4 No agreement may be cancelled by the customer, except with the prior agreement in writing of Smart Traffic and provided that the customer indemnifies Networkx Marketing Ltd in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Networkx Marketing as a result of the cancellation.

3.5 Networkx Marketing Ltd's employees are not authorised to make any contractually binding representations concerning the Services. In entering into the Agreement, the customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which have not been confirmed in writing by an authorised officer of Networkx Marketing Ltd.

3.6 Contract Cancellation – With the consent of a Networkx Marketing Ltd Director, contracts may be cancelled with 60 days prior written notice being sent by the customer and received by Networkx Marketing Ltd. Upon cancellation 50% of the remaining contract balance will be payable by the customer.

3.7 Any services provided and already delivered as part of a contract bonus or services that were agreed to be provided at a discount due to the client commitment to a contract term, will be invoiced at the full rate card amount if the contract term is not completed in full. The difference between the rate the client paid and the full rate card amount will be invoiced by Networkx Marketing Ltd and difference payable by the customer.

4. Customer's obligations

4.1 The customer will provide Networkx Marketing Ltd with reasonable direct and remote access to its website, and shall provide such other reasonable assistance as Networkx Marketing Ltd may request, including, but not limited to, providing source code and other statistical, diagnostic information and other relevant information required to enable Networkx Marketing Ltd to comply with its obligations under this Agreement.

4.2 The customer shall comply with directions and advice from Networkx Marketing Ltd within a reasonable period.

4.3 The customer shall not interfere or disrupt the Service.

5. Implementation of Service

5.1. In consideration of the payment by the customer of the fees in accordance with clause 11, Smart Traffic shall provide the products and services during the continuance of this Agreement.

5.2. Networkx Marketing Ltd shall be permitted to subcontract or outsource any of the products and services or obligations under this Agreement.

5.3. Networkx Marketing Ltd will use reasonable efforts to provide customers with the products and services in accordance with the estimated timeline set out in the order form.

5.4. Where the product or service being provided requires, Networkx Marketing Ltd will liaise with the relevant webagency, hosting company or other third party in order to provide the product or services. Networkx Marketing Ltd shall not be liable for any act or omission by the relevant web agency, hosting company or other third party, if such act or omission results in Networkx Marketing Ltd breaching its obligations under this Agreement.

5.5. Networx Marketing Ltd will not make changes to or update a customer's website prior to written or verbal consent from the customer, stating that Networx Marketing Ltd have the right to make the agreed changes and the Customer, as the website owner, agrees to and takes full responsibility for those changes being made.

6. Top Ten Google Guarantee (excluding pay on results 50/50 campaigns)

6.1 This clause shall only apply if the Top Ten Google Guarantee (TTGG) service is specified on the order form and there are no fee payments outstanding.

6.2 Networx Marketing Ltd may refund or provide services in lieu for [the amount determined by the Directors of Networx Marketing OR amount specified on the order form OR 50% of the fees in the 6 month period] if:

I. The customer's website is not listed on the first page of non sponsored listings in a the specified Google search for the key words agreed in the Order Form ("**Keywords**"), within 6 months from the completion date of the agreed link building campaign to fulfil this guarantee;

II. Google do not change their search engine algorithms within the 6 month period;

III. The customer has not and is not in breach of any term or condition of this Agreement;

IV. The customer has not removed any of the Services, changed Keywords, changed domains, interfered with the link building or not complied with the request and advice of Networx Marketing Ltd;

V. The customer has not acted in a way that the Director's of Networx Marketing Ltd consider, at their sole discretion, is detrimental to achieving the first page listing;

VI. The customer has not interfered with or impaired the Service;

VII. The customer's website has been available for more than 99% of the 6 month period;

VIII. The customer has not breached any national or international law; and

IX. There are no other factors outside of the control of Networx Marketing Ltd that have prevented or inhibited its ability to provide the TTGG service.

6.3 The Guarantee will be deemed fulfilled by Networx Marketing Ltd when a minimum of one keyword agreed in the campaign reaches a minimum of position 10 in the non sponsored listings for the specified Google search engine, where it is not specified the default will be: www.google.co.uk (pages from the UK)

6.4 This Guarantee applies to Google UK searches and no other search engines.

7. Link Building conditions and product specifications:

7.1 If stated on the order form Networx Marketing Ltd shall provide the link building services as specified on the website www.net-worx.co.uk.

7.2 The number of links stated in the Order Form is the number of links that Networx Marketing Ltd will provide on the link building report. The number is correct at the point at which the report is generated and quality controlled, whereupon it will be emailed to the customer.

7.3 Networx Marketing Ltd offer no guarantee for the length of time each link will remain live after the point at which it has been confirmed and reported on the customer link report or unless otherwise specified.

7.4 Theme links - These links can be related to the content and theme of your own website giving them far higher authority and a higher ranking.

7.5 Editorial Links - A unique, optimized 250 word article will be written themed around the clients industry. Within this copy a link will be placed pointing back at the client's website. There will be a maximum of 5 outbound links on the page

7.6 Exclusive Review Links - A unique, optimized 500 word review article based on the clients Industry will be written. Within this copy a link will be placed pointing back at the client's website and will be the only outbound link on the page

7.7 Multi-link reviews - An original, highly themed 1000 word article/webpage with up to 5 exclusive editorial links pointing at 5 different deep-link URLs on the same or multiple domains

8. Themed Link, Editorial Links, Review Links, Multi-Link Review, Guarantee:

8.1 Guarantee applies to live contract clients and resellers only – this means that clients that are still in a contract with Networx Marketing Ltd and continue to work and spend with Networx Marketing Ltd get a 1 year guarantee for each of their links. Resellers who buy links only get a 1 year guarantee for their links.

9. Exclusions from products and services.

9.1 Networx Marketing Ltd shall be under no obligation to provide products and services in respect of:

I. problems resulting from any modifications or customisation of the domain;

II. Links that are removed by third parties;

III. Any domains other than those specified on the order form;

9.2 The Services do not include:

I. The cost of any third party software upgrades or web development which Networx Marketing Ltd advises are required;

II. Any website, hosting or other technical support;

10. Top 10 guarantee for link building only customers

10.1 Networkx Marketing Ltd does not guarantee results for link building only clients under any circumstances.

11. Contract Term

The Services shall commence on the Commencement Date and shall remain in force from year to year thereafter, unless and until terminated by either party giving 60 days notice expiring at any time after the end of the Initial Term or otherwise in accordance with clause 3.6 and any other clause stated in this contract

12. Payment

12.1 The customer shall pay the fees without set-off, deduction or delay, monthly in advance in the manner specified in the payment schedule. All prices are exclusive of VAT and any other relevant taxes. No products or services shall be provided until payment has been received by Networkx Marketing Ltd, unless Director Approval has been obtained. Networkx Marketing Ltd shall be entitled at any time, and from time to time, to increase the fees to accord with any change in Networkx Marketing Ltd's standard scale of charges by giving to the customer not less than [90] days' prior written notice.

12.2 If Networkx Marketing Ltd provides any services not included within the Services at the request of the customer then Networkx Marketing Ltd shall charge for the same at its then current price and the customer shall pay any invoice raised in respect of the same within 30 days.

12.3 The date for payment of Networkx Marketing Ltd's invoices shall be of the essence of the Agreement.

12.4 If the customer fails to make payment in full on the due date, the whole of the balance of the fees then outstanding shall become immediately due and payable and, without prejudice to any other right or remedy available to Networkx Marketing Ltd, all guarantees are null and voided and Networkx Marketing Ltd may:

I. appropriate any payment made by the customer to any outstanding sum;

II. Charge interest on the amount outstanding from the due date to the date of receipt by Networkx Marketing Ltd (whether or not after judgment), at the annual rate of 4% above the then current base lending rate of Barclays Bank plc, accruing daily and compounded quarterly; and

III. Suspend all further delivery of Services until payment has been received in full.

12.5 The Fees are not refundable, except where otherwise stated herein.

12.6 Cheques and direct debits returned unpaid by the customer's bank and credit card payments returned unpaid will incur an administration charge which under all circumstances shall be paid by the customer.

13. 50/50 Campaigns (pay on results)

13.1 The Customer shall pay the 50% of the contract value in advance of any work starting by Networkx Marketing Ltd.

13.2 FULL SETTLEMENT without exception for all outstanding fees will be paid within 7 working days of Smart Traffic issuing a report in which the agreed keyword (s) are confirmed to be on page one of the specified Google or by default, www.google.co.uk (pages from the UK)

13.3 If payment is not received following 7 working days of the invoice being sent, Networkx Marketing Ltd will charge interest on the amount outstanding from the due date to the date of receipt by Networkx Marketing Ltd (whether or not after judgment), at the annual rate of 4% above the then current base lending rate of Barclays Bank plc, accruing daily and compounded quarterly;

13.4 The final 50% fees are payable regardless of the results if:

I. a customer changes the website or in any way hinders the progress of the website. If the customer has removed any of the products or services, changed keywords, changed domains, interfered with the link building or not complied with the request and advice of Networkx Marketing Ltd;

II. The customer has acted in a way that the Director's of Networkx Marketing Ltd consider, at their sole discretion, is detrimental to achieving the first page listing;

III. The customer has interfered with or impaired the product or service;

IV. The customer's website has not been available for more than 99% of the 6 month period;

V. The customer has breached any national or international law; and

VI. There are other factors outside of the control of Networkx Marketing Ltd that have prevented or inhibited its ability to provide the first page results.

13.5 Failure to pay the amount owed will result in legal action being taken by Networkx Marketing Ltd.

14. Termination or suspension of service

14.1 Networkx Marketing Ltd may, at its sole discretion, suspend the services or terminate this Agreement if the Customer:

I. fails to pay any sum due under this Agreement and such sum remains unpaid for 14 days after written notice from Networkx Marketing Ltd that such sum has not been paid;

II. Ceases to carry on business or become insolvent, or have an administrator or receiver appointed or enter into liquidation or enter into any agreement with its creditors; or

III. Fails to fulfil any of its obligations under any part of this or any other agreement that it has with Smart Traffic; or

IV. Interferes with or impairs the products or service, or Networx Marketing Ltd's ability to deliver the products or services.

14.2 Termination of the Agreement, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.

15. Dispute Resolution Procedure

15.1 If any dispute arises in connection with this agreement, directors or other senior representatives of the parties with authority to settle the dispute will, within 7 days of a written request from one party to the other, meet promptly or arrange a teleconference in good faith to resolve the dispute.

15.2 If the dispute is not resolved in accordance with conditions set, then Networx Marketing Ltd will refer the dispute, to be appointed, in default of agreement, on the request of either party to the English Courts. In any claim Networx Marketing Ltd will submit a claim for interest in accordance with section 13.3 and all legal costs associated to the claim against the customer will be paid by the customer without exception.

16. Data Protection Act

16.1 If any Personal Data (as defined by the Data Protection Act 1998) is passed to Networx Marketing Ltd under this Agreement then the parties agree that the customer is the Data Controller and that Networx Marketing Ltd is the Data Processor.

16.2 The customer warrants that it complies with the Data Protection Act 1998

16.3 Networx Marketing Ltd shall:

I. process the Personal Data only in accordance with instructions from customer;

II. process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the services or as is required by Law or any Regulatory Body;

III. implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing or loss, destruction, damage, alteration or disclosure; and

IV. take reasonable steps to ensure the reliability and confidentiality of any of Networx Marketing Ltd's personnel who have access to the Personal Data.

17. Limitation of liability

17.1 The following provisions set out the entire liability of Networx Marketing Ltd (including any liability for the acts or omissions of its employees) to the customer in respect of any breach of the Agreement and any representation, statement or tortious act or omission (including negligence) arising out of or in connection with the Agreement.

17.2 All warranties, conditions and other terms implied by statute or common law are excluded from the contract to the fullest extent permitted by law.

17.3 Nothing in these conditions excludes or limits the liability of Networx Marketing Ltd for death or personal injury caused by Networx Marketing Ltd's negligence or fraud or fraudulent misrepresentation. Subject to:

I. Networx Marketing Ltd shall not be liable for any loss of profits, loss of business, depletion of goodwill or similar losses or for any special, indirect or consequential loss, costs, damages, charges or expenses howsoever arising; and

II. Networx Marketing Ltd's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Agreement shall be limited to 100% of the total fees received by Networx Marketing Ltd in the calendar year in which the incident occurs.

17.4 The provisions of this Clause 15 shall continue to apply notwithstanding the termination or expiry of this Agreement.

17.5 Networx Marketing Ltd will not be liable for any links being removed by a third party or any penalties incurred by customers.

18. Confidentiality (NDA)

18.1 Save as provided in this Agreement each party shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed by one party to the other. Each party shall restrict disclosure of such confidential material to such of its employees as need to know the same for the purpose of discharging its obligations under the Agreement and shall ensure that such employees are subject to corresponding obligations of confidentiality.

18.2 All materials, drawings, specifications and data supplied by Networx Marketing Ltd to the customer shall at all times be, and remain, the exclusive property of Networx Marketing Ltd, but shall be held by the customer

in safe custody at its own risk until returned to Networx Marketing Ltd, and shall not be disposed of or used other than in accordance with Networx Marketing Ltd's written instructions or authorisation.

18.3 This condition shall survive termination of the Agreement, however caused.

18.4 Points agreed via a separate 'Non Disclosure agreement' are agreed in addition to this agreement, not in replace of this agreement.

19. Non-Solicitation

19.1 Neither party shall, during the continuance of the Agreement, or within 6 months of its termination, whether on behalf of itself or via a third party, solicit or seek to entice away any employee of the other. In the event of breach of this clause the party in default shall pay the other a sum equal to six months gross pay of the employee concerned being a pre-estimate of the cost of recruitment and training a replacement.

20. Force Majeure

20.1 Networx Marketing Ltd shall not be liable to the customer for any breach of its obligations under this the Agreement if such breach is due to or substantially contributed to a Force Majeure event.

20.2 If a Force Majeure event occurs, Networx Marketing Ltd shall inform the customer as soon as possible and take all reasonable steps to mitigate the effects of the Force Majeure event and resume performance

21. Waiver

21.1 A waiver of any right under the Contract is only effective if it is in writing and signed by or on behalf of the waiving party, and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

22 Entire Agreement

22.1 This Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

22.2 Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy (other than for breach of contract) in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this agreement.

22.3 In the event of any part of this Agreement being held inapplicable or unreasonable, the remainder of the Agreement shall remain in full force and any clause held inapplicable or unreasonable shall be enforced to the fullest extent possible.

23. Assignment

23.1 The customer shall not, without the prior written consent of Networx Marketing Ltd, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.

23.2 Networx Marketing Ltd may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement.

24. Third party rights

24.1 The Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

24.2 The Client shall indemnify Networx Marketing Ltd against all claims, costs and expenses which Networx Marketing Ltd may incur and which arise, directly or indirectly, from the Client's breach of any of its obligations under this Agreement, including any claims brought against Networx Marketing Ltd alleging that any services provided by Networx Marketing in accordance with the Service Specification infringes a patent, copyright or trade secret or other similar right of a third party.

25. Notices

25.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall be sent by email or delivered by hand or sent by pre-paid first-class post or recorded delivery post to the address of the party as set out in these conditions, or, in each case, such other address as may be notified by one party to the other.

25.2 A notice delivered by hand is deemed to have been received when delivered (or, if delivery is not in business hours, 9.00 am on the first business day following delivery). A correctly addressed notice sent by prepaid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. An e-mail shall be deemed to have been delivered within 24 hours from the time of being sent, provided that no "non deliverable" notices is received by the sender.

26. Governing law and jurisdiction

26.1 The Agreement and any disputes or claims arising out of or in connection with its subject matter are governed by and construed in accordance with the law of England and Wales and the courts of England and Wales shall have exclusive jurisdiction.

27. Partners including resellers and referrers

27.1. All partners agree to this agreement as well as the relevant partner agreements.

27.2 Partners or Agents do not represent, are not authorised to sign anything on behalf of or agree terms on behalf of, contract for or agree either verbally or in writing any for Networx Marketing Ltd.

27.3 If a customer is refunded in part or in full for fees paid for products and services from Networx Marketing Ltd then any commissions paid due to that contract will be clawed back from the partner or agent without discretion.

28. Changes to this Agreement

28.1. Networx Marketing Ltd may modify this Agreement where it is required to do so, by notifying the customer in writing and giving 30 days notice where possible. This would include where changes to the law, rules applied by other authorities which require Networx Marketing Ltd to modify its procedures, policies or services.

28.2. Networx Marketing Ltd may at any time modify this Agreement for new customers by publishing a new agreement on its website.