



Address: 376 Summit Road, Sandton  
Tel: 011 021 2992  
Registration Number: 2009/175706/23  
Vat Number: 4900167075

## Standard Business Terms

For ease of expression, The Web Shack CC. is referred to as “The Web Shack”, the Client is referred to as “the Client” and the full extent of the services and deliverable’s to be provided by Shack and the Client are collectively referred to as “the Project”.

## Project responsibility

1. The Web Shack and the Client acknowledge that the success of the Project is the joint responsibility of both parties. Failure by either party to fulfill its obligations may impact the other’s ability to meet its obligations on the Project;
2. The Web Shack and the Client recognise they must both use all reasonable endeavours to meet agreed deadlines;
3. The Web Shack may appoint sub-contractors to assist in meeting its obligations on the Project;
4. The Web Shack will agree with the Client its needs for appropriate involvement of Client personnel, reasonable working accommodation, communications and access to equipment.

## Scope of project

5. The scope of the Project is described in the Memorandum (“the Invoice”) of Agreement. Although elements of the scope may necessarily change over time, The Web Shack will have no obligations to proceed with any change proposed by the Client until the cost and schedule impact has been agreed. The Web Shack will develop the cost and schedule impact of proposed changes within a reasonable period of receiving instructions from the Client. If the project is reliant on Client facilities, personnel or skills, The Web Shack reserves the right to treat absences of Client facilities, personnel or skills as a proposed change in scope even if caused by circumstances beyond the Client’s control.

## Confidentiality

6. During the Project the Client is likely to have access to confidential information of The Web Shack, including (but not limited to) The Web Shack’s past, present and future research, development, business activities, products, services and technical knowledge. Similarly, The Web Shack is likely to have access to confidential information of the Client.
7. Accordingly, each party (“the Recipient”) agrees and undertakes in favour of the other party (“the Protected Party”) that the confidential information of the Protected Party may be used by the recipient only in connection with the Project and



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will be kept in the strictest confidence and will not be disclosed to any third party except with the prior signed written approval of the Protected Party or pursuant to an order, directive or subpoena issued by any competent court or authority. The Client agrees that the Memorandum of Agreement (including its annexes) constitutes confidential information of The Web Shack as contemplated in this paragraph.

### **Intellectual property rights**

8. The Web Shack will retain the intellectual property rights and copyright of any work performed by its personnel, save for all such work as is paid for wholly and exclusively by the Client, and may retain such copies of outputs and deliverables as are necessary for its reference purposes. The Web Shack may re-use concepts and other outputs of the Project provided confidential information of the Client is safeguarded.

### **Remedies and liabilities**

9. The Web Shack's objective is to work with the Client to achieve the business objectives of the Project. If, in doing so, the Client suffers damages resulting from an act or omission of a The Web Shack director or employee, The Web Shack would recognise this as its responsibility, up to but not exceeding the amount of fees received from the Client for that phase of work.
10. The Client agrees that The Web Shack shall be given a reasonable opportunity to remedy any failure or shortcoming in the delivery of the services / deliverables to the Client notified to The Web Shack within six months of delivery. The Web Shack undertakes, at its expense, to use all reasonable efforts to implement such remedy as soon as reasonably possible after any such failure is reported to The Web Shack. Subject to the financial limits set forth above, the Client agrees that this provision is the exclusive remedy available to the Client in the event of any failure or shortcoming in the project.
11. The Web Shack shall not be liable for any indirect or consequential loss or damage of any kind under any circumstances including negligence (whether arising under contract, common law or otherwise) including but not limited to loss of profits, loss or corruption of data, loss of operation time or loss of contracts, whether caused by its directors, employees, agents or others for whom in law it may be liable.
12. The Web Shack's liability under paragraphs 9 and 10 is in lieu of and to the exclusion of any warranty or term of any kind relating to the condition, performance, merchantability or fitness for purpose of the services or any deliverables.



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## **Infringement and copyright**

13. The Web Shack will defend, at its expense, a third party claim that any service or deliverable The Web shack has provided infringes a South African copyright. In the event that any damages are finally awarded against the Client in respect of such a claim, these will be paid by The Web Shack. This indemnity will not apply if the infringement is the result of the Client modifying, misusing or providing deliverables or services to a third party or failure to use enhancements supplied by The Web Shack or information, documents, facilities or products which are supplied by the Client for the purposes of the Project. This indemnity constitutes the Client's sole and exclusive remedy and the The Web Shack's entire liability with respect to any deliverable or service infringing any third party rights.

## **Force majeure**

14. The Web Shack will not be liable for any delay in performing or failure to perform its obligations if such failure or delay is as a result of causes outside its reasonable control.

## **Quality assurance**

15. The Client agrees, if so requested by The Web Shack, to allow representatives of any organisation responsible for certifying standards of work access to the Client's premises and to co-operate, so far as is reasonable, with such representatives.

## **Personnel**

16. The Web Shack believes that a planned rotation of its personnel is in the Client's best interests, both in terms of quality and cost management. The Web Shack reserves the right to meet its responsibilities through the allocation of appropriate available skilled personnel without a guarantee that specific individuals will be assigned.

17. In the event of the resignation of a The Web Shack or Client project team member who is a key resource on the Project, the respective employer will endeavour to replace that person within a reasonable time period or otherwise agree to a reallocation of resources or scope change to the Project.

18. Neither party shall for the duration of the Project, and for one year thereafter, employ any person engaged by the other in connection with the Project.



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## **Termination of agreement**

19. The Client may terminate or restrict The Web Shack's services at any time in which case the Client will be liable for all work done at The Web Shack's standard billing rates which may be higher than proposed rates contracted for the Project, since proposed rates will have included assumptions on the volume of work and levels of staffing at various stages. The Client will also be liable for any cancellation charges incurred by The Web Shack. The Web Shack may terminate its participation in the project if its fees remain unpaid for sixty (60) days or if the Client commits significant or repeated breach of agreement.
20. In the event that any proposed change of scope is as a result of circumstances beyond the Client's control and the cost implication of the change of scope is, in the opinion of the Client, material, the Client may forthwith terminate or restrict The Web Shack's services in which event the Client will be liable for all work done at the proposed rates contracted for the project.

## **Payment**

21. The economics of The Web Shack's proposal are based on timeous payment of invoices to balance expenditures on salaries and office costs. As a consequence, all invoices for fees and expenses will be payable monthly on presentation or as scheduled in the Memorandum of Agreement. Any sum which remains outstanding beyond ten (10) days will bear interest from the date of presentation until paid in full. This interest will be at the then current Standard Bank Prime Rate compounded monthly.