

Your Social Media Fairy
Terms & Conditions
(including GDPR Independent Contractor Agreement)

Please read these conditions carefully.

These terms and conditions apply to all services provided by Your Social Media Fairy (“YSMF”, “we”, “our”, “I”). When you purchase a service from YSMF you are confirming that you (“you”, “your”, “the client”) have read and agreed with the following terms and conditions on behalf of yourself and your business.

The terms and conditions contained within this independent contractor agreement (the “AGREEMENT”) are made between [the legally registered name of your company] (the “COMPANY”), with a principal place of business at [address], and Your Social Media Fairy (the “CONTRACTOR”), with a principal place of business at 1 Alder Avenue, Kidderminster, DY10 2LD.

Throughout this document, the COMPANY and the CONTRACTOR are collectively known as (the “PARTIES”) to this AGREEMENT.

The COMPANY is also referred to at times as the CONTROLLER

The CONTRACTOR is also referred to at times as the PROCESSOR

DEFINITIONS

CONTROLLER means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data;

MATERIAL VIOLATION means those acts that provide for the immediate cancellation of the AGREEMENT. Including but not limited to:

PERSONAL DATA means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

PROCESSING means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;

PROCESSOR means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;

PROJECT means the products and or services that the CONTRACTOR is providing to the COMPANY. The PROJECT is the subject matter that this AGREEMENT is intended to govern and control.

TERM OF AGREEMENT

This AGREEMENT is effective when signed by both PARTIES.

The AGREEMENT shall continue for a period of 12 months.

This AGREEMENT may be extended or renewed by a writing signed by both PARTIES.

Everything written down within this AGREEMENT applies to all services and all periods of time in which CONTRACTOR provides services for COMPANY.

TERMINATING THE AGREEMENT

With reasonable cause, either of the PARTIES may terminate (end) this AGREEMENT immediately by giving written notice of termination to the other party. Wrongfully terminating the AGREEMENT, may lead to the wronged PARTY taking legal action to recoup according to standard contract law principles.

For purposes of this AGREEMENT, reasonable cause shall be defined as

- A material violation of this AGREEMENT, including but not limited to: theft of COMPANY'S resources and or data, disclosure of COMPANY'S confidential information, or
- Any act exposing the other party to liability to third parties for personal injuries or damage to property, real or personal.

SERVICES TO BE PERFORMED

CONTRACTOR agrees to perform the following services for COMPANY.

[Insert the details of the work that the Contractor is going to do for you. If you have a bid for the work they are doing for you, then you can reference that here and make sure you have a way of digitally tying it to this contract.

INTELLECTUAL PROPERTY

COMPANY agrees that this AGREEMENT is a services-for-hire arrangement and that any and all intellectual property created as a result of this AGREEMENT is the intellectual property of the CONTRACTOR unless otherwise specifically agreed in 'Services to be Performed' above. Content created remains the intellectual property of the CONTRACTOR after the termination of a contract and should not be published, or otherwise employed, in whole or part without specific agreement. This paragraph applies to ALL media created, including images, videos and written media. This is not an exhaustive list. The intellectual property of original, unedited images and video remains with the creator, whether CONTRACTOR or COMPANY.

Notwithstanding the above the sale of any media is negotiable.

Media created for the COMPANY by the CONTRACTOR will not be used for any other company.

CONTRACTOR has all legal rights in any of the work-product created for the COMPANY.

COMPANY and CONTRACTOR agree to the following acceptable use for CONTRACTOR to showcase its work for the COMPANY.

Use in CONTRACTOR'S portfolio

Use in CONTRACTOR'S testimonials on website and any other reasonable marketing materials

Other:

PAYMENT

In consideration for the services to be performed by the CONTRACTOR, COMPANY agrees to pay CONTRACTOR.

The use of third-party media and or services, including paid for advertising on digital platforms, is payable in addition to the services to be performed by the CONTRACTOR.

TERMS OF PAYMENT

For Monthly Retainer Packages CONTRACTOR shall invoice COMPANY on a monthly basis on or around the 19th of the month. Payment is due by the 28th by Standing Order or similar automatic recurring payment. I am a small business with my own bills to pay and so respectfully request adherence to invoice due dates.

Payments should be made via bank transfer (details of which will be found on your invoice) or via a 3rd party such as Stripe or Paypal, as agreed.

Monthly services will cease immediately on an invoice going unpaid and will resume immediately on payment. Any work which would have been completed during the time that the invoice went unpaid will not be credited or completed.

Monthly packages are subject to a minimum term of 3 months. This is to reflect the greater investment of time and resources necessary by the CONTRACTOR to set up the relevant services, get to know the COMPANY, its products, services and ethos. If you choose to terminate this agreement before the end of the minimum term the total of the 3 months is still due.

All services are invoiced prior to work commencement and work will not begin until receipt of cleared funds to Your Social Media Fairy.

Services billed on an hourly rate will require a £200 upfront payment which will be deducted from the final invoice. If the final total invoice is below £200, the difference will be refunded to the client in full.

In the event that the COMPANY is unsatisfied with the work produced by the CONTRACTOR, the PARTIES agree to the following formula for determining resolving disagreements regarding receiving unsatisfactory work.

Formula for handling the situation when COMPANY is not satisfied with the work produced by the CONTRACTOR:

In the event of the COMPANY not being satisfied with the work of the CONTRACTOR the COMPANY must first have discussions with the CONTRACTOR to try and find a resolution. If no resolution can be reached all Services will continue up to the end of the last period paid for, unless the COMPANY requests, in writing, for them to cease immediately. No refunds will be given. All outstanding invoices must be paid for immediately. All passwords and access to your social media channels, and other platforms accessed on behalf of the COMPANY will be deleted from the CONTRACTOR's records. If you decide to resume services at a later date an initial set up fee will be required to set up the CONTRACTOR's systems again. It is your responsibility to ensure you have access to these systems and you know the relevant access details as they will be wiped from the CONTRACTOR's records.

LIMITS AND GUARANTEES

The COMPANY remains the owner of their own social media channels and must monitor them accordingly.

The CONTRACTOR will not be held liable for negative comments on a post.
The CONTRACTOR will not post anything that could be deemed offensive.

The CONTRACTOR will agree with you which channels suit your business best, based on the type of person you are trying to engage and your objectives for using social media. Based on this we will also agree with you the type of content you wish to have posted on your social media channels. It is up to the CONTRACTOR's discretion to choose content to post onto your social media channels, unless otherwise agreed.

The CONTRACTOR's involvement will not, and should not, stop you from checking your channels, posting to them as you see fit or answering to comments etc.

The CONTRACTOR does not monitor your channels or answer to comments the COMPANY'S behalf. This remains the responsibility of the COMPANY unless otherwise agreed.

The CONTRACTOR's scope is limited to the services set out in the 'Services to be performed' above. The CONTRACTOR cannot guarantee reach, likes, shares, comments or the like.

The CONTRACTOR will advise on content type and will agree this with the COMPANY. The CONTRACTOR expects the COMPANY to engage in ongoing discussions about content in alignment with the COMPANY aims and Marketing Plan.

The CONTRACTOR is not, and cannot be held responsible for, the actions and functionality (or lack of) of any third-party applications and social media platforms.

EXPENSES

CONTRACTOR shall be responsible for all expenses incurred while performing services under this AGREEMENT.

Notwithstanding 'Intellectual Property' and 'Payment' above; this includes license fees, memberships and dues; automobile and other travel expenses; meals and entertainment; insurance premiums; telephone; and all salary, expenses, and other compensation paid to employees or contract personnel that CONTRACTOR hires to complete the work under this AGREEMENT.

MATERIALS

The CONTRACTOR will furnish all materials, equipment, and supplies used to provide the services required by this AGREEMENT. This does not include purchasing products and or licenses that COMPANY needs to own in order to allow the CONTRACTOR to complete its services with regards to the 'Services to be Performed'.

For instance, if the COMPANY has hired the CONTRACTOR to perform work on the COMPANY's website and is using a specific theme, the COMPANY is required to purchase the theme as it will be owned in the future by the COMPANY.

INDEPENDENT CONTRACTOR STATUS

The PARTIES agree that the CONTRACTOR is an independent CONTRACTOR, and that neither CONTRACTOR nor its employees or contract personnel are, or shall be deemed to be, employees of COMPANY.

In its capacity as an independent contractor, the CONTRACTOR agrees to and represents the following:

- the CONTRACTOR has the right and does fully intend to perform services for third parties during the term of this AGREEMENT.
- the CONTRACTOR has the sole right to control and direct the means, manner, and method by which the services required by this AGREEMENT will be performed.
- the CONTRACTOR has the right to perform the services required by this AGREEMENT at any place or location and at such times as CONTRACTOR may determine.
- the CONTRACTOR has the right to hire assistants as subcontractors or to use employees to provide the services required by this AGREEMENT.
- The services required by this AGREEMENT shall be performed by the CONTRACTOR, or its employees or contract personnel, and the COMPANY shall not hire, supervise, or pay any assistants to help the CONTRACTOR.
- Neither CONTRACTOR nor its employees or contract personnel shall receive any training from the COMPANY in the professional skills necessary to perform the services required by this AGREEMENT.
- Neither the CONTRACTOR nor its employees or contract personnel shall be required by the COMPANY to devote full time to the performance of the services required by this AGREEMENT.
- The CONTRACTOR does not receive the majority of its annual compensation from the COMPANY.

- The CONTRACTOR shall perform duties for the COMPANY within business hours. Work requested to be undertaken outside of normal business hours will be charged in addition to the original agreement at a premium rate.
- Work undertaken at short notice by request of the COMPANY will be charged at an additional premium rate.

The PARTIES acknowledge and agree that the COMPANY is entering into this AGREEMENT with reliance on the representations made by the CONTRACTOR relative to its independent contractor status.

CONFIDENTIALITY

CONTRACTOR will not disclose or use, either during or after the term of this AGREEMENT, any proprietary or confidential information of COMPANY without COMPANY's prior written permission.

PROCESSING COMPANY'S DATA

The COMPANY/CONTROLLER is hiring the CONTRACTOR/PROCESSOR for a PROJECT that requires the CONTRACTOR/PROCESSOR to process COMPANY'S data. As such, the CONTRACTOR/PROCESSOR agrees to the following:

To use two-factor authentication, when offered, on all digital devices, web applications and or platforms, when working for the COMPANY/CONTROLLER;

To not engage/hire/outsource any work that the COMPANY/CONTROLLER has hired CONTRACTOR/PROCESSOR to perform, unless confirmed in a writing signed by both parties;

To process the COMPANY/CONTROLLER personal data based on written instructions from the COMPANY/CONTROLLER;

To assist the COMPANY/CONTROLLER with appropriate technical and organisational measures, as is possible, to help COMPANY/CONTROLLER fulfil their obligation to responding to requests surrounding their subscribers/customers (data subjects) rights as outlined in the GDPR;

To assist the COMPANY/CONTROLLER in ensuring compliance with the obligations pursuant to ongoing data security;

To delete and or return all the personal data to the COMPANY/CONTROLLER after the end of the PROJECT, and delete existing copies unless European Union or Member State law requires storage of the personal data;

To make available to the COMPANY/CONTROLLER all information necessary to demonstrate compliance with the obligations as part of the General Data Protection Regulation (GDPR) and allow for and contribute to audits, including inspections, conducted by the COMPANY/CONTROLLER or another auditor mandated by the controller.

To immediately inform the COMPANY/CONTROLLER if, in the opinion of the CONTRACTOR, an instruction infringes with the GDPR;

APPLICABLE LAW

The terms and conditions above are governed by the laws of England and Wales.

NOTICES

All notices of termination of, or alteration to, this AGREEMENT shall be in writing and shall be

- Personally delivered;
- Sent by registered post with a return receipt requested;
- Electronic mail.

NO PARTNERSHIP

This AGREEMENT does not create a partnership relationship.

ASSIGNMENT AND DELEGATION

The CONTRACTOR may not assign or subcontract any rights or obligations under this AGREEMENT without the COMPANY's prior written approval.

ENTIRE AGREEMENT

This writing is the entire AGREEMENT between the CONTRACTOR and the COMPANY.

MODIFYING THE AGREEMENT

Only in writing signed by both PARTIES may modify this AGREEMENT.