

# Terms of Business

3 JANUARY 2024 REV 1.3



## Terms of Business

The following Terms and Conditions of Service apply to all products and services provided by Tesoro Creative Ltd, also trading as The Detective Agency (hereinafter referred to as Tesoro Creative).

All work is carried out by Tesoro Creative on the understanding that the client has agreed to Tesoro Creative's terms and conditions.

Copyright is retained by Tesoro Creative on all design work including words, pictures, ideas, visuals and illustrations unless specifically released in writing and after all costs have been settled.

If a choice of design is presented, only one solution is deemed to be given by Tesoro Creative as fulfilling the contract. All other designs remain the property of Tesoro Creative, unless agreed in writing that this arrangement has been changed.

## Project Acceptance

At the time of proposal, Tesoro Creative will provide the customer with a written estimate or quotation.

A copy of the written estimate or quotation is to be signed and dated by the customer to indicate acceptance and should be returned to Tesoro Creative Alternatively, the client may send an official order in reply to the estimate or quotation which binds the client to accept Tesoro Creative's terms and conditions, or an email acknowledging acceptance of the quotation. No work on a project will commence until acceptance of the quotation has been received by Tesoro Creative

## Design Charges - New Clients - First Project Only

Charges for design services to be provided by Tesoro Creative will be set out in the written estimate or quotation that is provided to the customer. At the time of the customer's signed (email) acceptance of this estimate or quotation, indicating acceptance of the Terms & Conditions, a non-refundable deposit of fifty (50) percent of the quoted fee will become immediately due. Work on the project will not commence until Tesoro Creative has received this amount. The remaining fifty (50) percent of the project quotation total will be due upon completion of the work prior to upload to the server or release of materials.

## Design Charges - Existing Clients

Charges for design services to be provided by Tesoro Creative will be set out in the written estimate or quotation that is provided to the customer. Unless agreed otherwise with the Client, one hundred (100) percent of the project quotation total will be due 30 days from the invoice date.

## Source Files

Charges for design work do not cover the release of source design files including indd, psd, ai, fla or any other source files; if the Client requires these source files, they will be subject to a separate charge. Unless discussed otherwise.

## Default

An account shall be considered default if it remains unpaid for 30 days from the date of invoice. Tesoro Creative shall be considered entitled to remove Tesoro Creative and/or the customer's material from any and all computer systems, until the amount due has been fully paid. This includes any and all unpaid monies due for services, including, but not limited to, hosting, domain registration, search engine submission, design and maintenance, sub-contractors, printers, photographers and libraries.

Removal of such materials does not relieve the customer of its obligation to pay the due amount. Customers whose accounts become default agree to pay Tesoro Creative reasonable legal expenses and third party collection agency fees in the enforcement of these Terms and Conditions.

## Copyrights and Trademarks

By supplying text, images and other data to Tesoro Creative for inclusion in the customer's website or other medium, the customer declares that it holds the appropriate copyright and/or trademark permissions. The ownership of such materials will remain with the customer, or rightful copyright or trademark owner.

Any artwork, images, or text supplied and/or designed by Tesoro Creative on behalf of the customer, will remain the property of Tesoro Creative and/or its suppliers until full payment is made.

By supplying images, text, or any other data to Tesoro Creative, the customer grants Tesoro Creative permission to use this material freely in the pursuit of the design.

Should Tesoro Creative, or the customer supply an image, text, audio clip or any other file for use in a website, multimedia presentation, print item, exhibition, advertisement or any other medium believing it to be copyright and royalty free, which subsequently emerges to have such copyright or royalty usage limitations, the customer will agree to allow Tesoro Creative to remove and/or replace the file on the site.

The customer agrees to fully indemnify and hold Tesoro Creative free from harm in any and all claims resulting from the customer in not having obtained all the required copyright, and/or any other necessary permissions.

## Alterations

The customer agrees that changes required over and above the estimated work or required to be carried out after acceptance of the draft design might be liable to a separate charge. The customer also agrees that Tesoro Creative holds no responsibility for any amendments made by any third party, before or after a design is published.

## Licensing

Any design, copywriting, drawing, idea or code created for the customer by Tesoro Creative, or any of its contractors, is licensed for use by the client on a one-time only basis and may not be modified, re-used, or re-distributed in any way or form without the express written consent of Tesoro Creative and any of its relevant sub-contractors.

All design work - where there is a risk that another party make a claim, should be registered by the client with the appropriate authorities prior to publishing or first use or searches and legal advice sought as to its use. Tesoro Creative will not be held responsible for any and all damages resulting from such claims. Tesoro Creative is not responsible for any loss, or consequential loss, non-delivery of products or services, of whatever cause. The customer agrees not to hold Tesoro Creative responsible for any such loss or damage. Any claim against Tesoro Creative shall be limited to the relevant fee(s) paid by the customer.

## Design Project Duration

Any indication given by Tesoro Creative of a design project's duration is to be considered by the customer to be an estimation. Estimated project duration should be deemed to be from the date that cleared funds are received by Tesoro Creative for the initial payment or by date confirmed in writing by Tesoro Creative

## Rights of Access for Website Construction

The client agrees to allow Tesoro Creative all necessary access to computer systems and other locations, as required, in order to complete a website project and until all due funds are cleared, including the necessary read/write permissions, usernames and passwords. The customer also agrees to allow Tesoro Creative access to any computer systems, usernames and passwords required to remove data and/or sites for failure to comply with these Terms and Conditions. The customer agrees to supply Tesoro Creative with all necessary materials, electronic, or otherwise, required to create and complete the project, and to supply them in a timely manner.

## Hosting websites

Tesoro Creative offers a limited in-house hosting services through an out-sourced virtual server. Tesoro Creative does not guarantee continuous service and will accept no liability for loss of service, whatever the cause. Tesoro Creative may request that clients change the type of hosting account used if that account is deemed by Tesoro Creative to be unacceptable because of poor service, lack of bandwidth or in any other way insufficient to support the website. Fees for hosting on Tesoro Creative's virtual server are due at the commencement of any period of service and are non-refundable. Fees due to third party hosting organisations are the responsibility of the client and Tesoro Creative are not liable for their payment, nor for the renewal of domain names, which are the sole responsibility of the customer / domain owner.

## Domain Registration

Tesoro Creative cannot guarantee the availability of any domain name. Where Tesoro Creative is to register a domain name on behalf of a client it will endeavour to do so but the client should not assume a successful registration.

## Search Engine Submission

Due to the infinite number of considerations that search engines use when determining a site's ranking, Tesoro Creative cannot guarantee any particular placement. Acceptance by any search engine cannot be guaranteed and when a site is accepted, the time it takes to appear in search results varies from one search engine to another. Rankings will also vary as new sites are added. Tesoro Creative recommend that customers put in place an SEO strategy, either with Tesoro Creative or a third party SEO company. Tesoro Creative can provide details of such companies, but accept no responsibility for their services.

## Design Credits

The customer agrees to allow Tesoro Creative to place a small credit on printed material exhibition displays, advertisements and/or a link to Tesoro Creative own website on the customer's website. This will usually be in the form of a small logo or line of text placed towards the bottom of the page.

The customer also agrees to allow Tesoro Creative to place websites and other designs, along with a link to the client's site on Tesoro Creative own website for demonstration purposes and to use any designs in its own publicity and portfolios.

## Rights of Refusal

Tesoro Creative will not include in its designs, any text, images or other data which it deems to be immoral, offensive, obscene or illegal. All advertising material must conform to all standards laid down by all relevant advertising standards authorities. Tesoro Creative also reserves the right to refuse to include submitted material without giving reason. In the situation where any images and/or data that Tesoro Creative does include in all good faith, and subsequently discovers is in contravention to such Terms and Conditions, the customer is obliged to allow Tesoro Creative to remove the contravention without hindrance, or penalty. Tesoro Creative is to be held in no way responsible for any such data being included.

## Cancellation

Cancellation of orders may be made initially by telephone contact, or e-mail, however, following this, Tesoro Creative will need formal notification in writing to the company's postal address. The client will then be invoiced for all work completed over and above the non-refundable deposit that will have been made at the time of first ordering. The balance of monies due must be paid within 30 days. Please note: any cancellation which is not formally confirmed in writing and received by Tesoro Creative within 14 days of such instruction being issued, will be liable for the full quoted cost of the project.

## Data Protection

In accordance with the new GDPR regulation that is in effect as of 25th May 2018, Tesoro Creative has set out what data Tesoro Creative holds, why such data is held and what Tesoro Creative does with the data.

Tesoro Creative limits what personal data is held.

Tesoro Creative will collect Client information to carry out its Services and any related services the Client may request. In doing so, Tesoro Creative may use the personal information we have collected for purposes related to the Services provided, business updates and general communications.

Tesoro Creative will only hold Client Name, Client's Position Held or Job Title, Contact Telephone Number and Contact Email Address.

The personal data that we collect from you may be transferred to, and stored at, locations outside the European Economic Area ("EEA"). It may also be processed by staff operating outside the EEA who work for us or for one of our suppliers. These staff may be engaged in, among other things, the fulfilment of your order, the processing of your payment details and the provision of support services.

Client data may be stored in a GDPR compliant place including Tesoro Creative's desktop devices (PC and MAC), tablets and phones, Google Drive, Drop Box and other cloud services.

Tesoro Creative will not share any Client contact information. Tesoro Creative will not sell, rent, lease, or give away Client data, Client lists, email addresses or any other personal information unless required by law to do so.

If the Client requests that their data is to be removed, Tesoro Creative will delete it within 1 month, or in the case of email campaigns, Clients can remove themselves with the unsubscribe button.

Tesoro Creative may, from time to time, gather specific data from user browsers as visitors enter and exit Tesoro Creative's website. The data is anonymised data, may be collected via Google Analytics and other tracking systems. This information is standard, and contains data such as referring URL, pages viewed, and amount of time spent on the site. This data is used for internal calculations of traffic, platform, and download counts.

Tesoro Creative also acts on rare occasions on behalf of its clients, in the capacity of data processor. When working exclusively as a data processor, we will be acting on the instruction solely of our client and any practises and procedures in place are on their instruction and we accept no responsibility for their errors their in procedures and practices. However, when working exclusively as a data processor, Tesoro Creative will be acting on the instruction of its client, and will work hard to ensure that the client is fully GDPR compliant.

## Indemnity

The Client agrees to indemnify Tesoro Creative and keep Tesoro Creative indemnified and hold Tesoro Creative harmless from and against any claims, actions, proceedings, losses, liabilities, damages, costs, or expenses suffered or incurred in relation to work or services provided. Tesoro Creative is not liable for any loss that may occur before, during or after the development of projects undertaken. Tesoro Creative will not be held responsible for any delays, errors or losses arising from any third party.

Tesoro Creative shall have no liability for any loss or damage caused to the Client due to:

- (a) any network failure and/or inability on the part of the Client to access the Website due to a problem with the Internet and/or any telecommunications network;
- (b) any viruses, worms, Trojan horses or other similar devices.

## Disclaimer

Tesoro Creative makes no warranties of any kind, express or implied, for any and all products and/or services that it supplies. Tesoro Creative will not be held responsible for any and all damages resulting from products and/or services it supplies. Tesoro Creative is not responsible for any loss, or consequential loss of data, or non-delivery of products or services, of whatever cause. While we take reasonable steps to investigate the materials and third party services we resell or recommend, we accept no responsibility for the performance or quality of such materials or any consequential loss arising from their failure. The customer agrees not to hold Tesoro Creative responsible for any such loss or damage. Any claim against Tesoro Creative shall be limited to the relevant fee(s) paid by the customer.

Tesoro Creative reserves the right to use the services of sub-contractors, agents and suppliers and any work, content, services and usage is bound by their Terms and Conditions. Tesoro Creative will not knowingly perform any actions to contravene these and the client also agrees to be so bound.

Tesoro Creative and its clients agree to comply with Printers Terms and Conditions which include disclaimers for non-completion on time and the flexibility to supply quantities within 10% of the total ordered. Tesoro Creative recommend that if an exact quantity is required, then 10% extra is added to the quantity and extra time made available should the job be delayed.

## General

These Terms and Conditions supersede any previous Terms and Conditions distributed in any form. Tesoro Creative reserves the right to change any rates and any of the Terms and Conditions at any time and without prior notice.

## Acceptance of Terms and Conditions and Quotation

The placement of an order for design and/or any other services offered by Tesoro Creative, by email, verbally or in writing, is deemed to be acceptance of these terms and conditions, which are freely available at [tesorocreative.com/terms-of-business](https://tesorocreative.com/terms-of-business)

An estimate validated by the customer's acceptance in an email or by letter, constitutes acceptance of the estimate or quotation and agreement to comply fully with all the Terms and Conditions and forms a Contract for Business between the signatory and Tesoro Creative.

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