

Terms & Conditions



totalSOLUTION

A complete website service for accountants



This document together with the other documents expressly referred to in it constitute the terms and conditions on which we supply any of the services described on our website to you. Please read it carefully before placing your order. You should understand that by ordering any of our services you agree to be bound by these terms and conditions. We recommend that you should print a copy and retain for future reference.

Please click on the button on the order form to confirm that you have read and agree to be bound by these terms and conditions. Please understand that if you do not accept these terms and conditions, you will not be able to order any services from our site.

Please note that our Services are designed for use in relation to the law of England and Wales only.

1. Definitions

- 1.1 "we" "our" and "us" means or refers to MERCIA totalSOLUTION. MERCIA totalSOLUTION is a trading name of Mercia Group Limited. Mercia Group Limited is a company registered in England & Wales with company number 1464141. Registered Office: 19 - 21 Christopher Street, London EC2A 2BS. Our principal place of business: Best House, Grange Business Park, Enderby Road, Whetstone, Leicester LE8 6EP. Our VAT number is [485 7502 17].
- 1.2 "you" and "your" means or refers to the company, firm or individual placing the order via our on line shop.
- 1.3 "Additional Services" means the add-on services or any of them ordered via our online shop as more particularly described in Part 2 of the Schedule.
- 1.4 "Customer" means your customer.
- 1.5 "Minimum Term" means a period of twelve (12) months from the date of your order.
- 1.6 "Monthly Payment" means the price payable for the Support Services and any ongoing Additional Services.
- 1.7 "Schedule" means the schedule [at the end of this document] which gives details of the Services which we are to provide to you.
- 1.8 "Scheduled Downtime" means the period for which we reasonably determine that the Services are not available or are not fully available by reason of maintenance and upgrade requirements to be carried out by us.
- 1.9 "Services" means the Support Services and Additional Services (if any).
- 1.10 "Service Uptime (Actual)" means the percentage of the Service Uptime (Contracted) achieved for access to the Services after taking into account Scheduled Downtime;



- 1.11 "Service Uptime (Contracted)" means twenty-four (24) hours a day seven (7) days a week three hundred and sixty-five (365) days a year which is the availability of the Services to the Internet and on the assumption, if not a fact, that the Internet and/or transmission links not in our control are capable of allowing accessibility to the Internet;
- 1.12 "Support Services" means the services more particularly described in Part 1 of the Schedule.
- 1.13 "Unscheduled Downtime" means downtime outside and beyond Scheduled Downtime.

2. Formation of contract

- 2.1 The completion and submission by you of our online order form shall constitute your acceptance of the Services and shall form a contract between us for the supply and purchase of those Services. These terms and conditions including the Schedule shall apply between us in respect of the Services we are to provide. Except to the extent that this agreement is varied by mutual consent in writing, it shall constitute the entire agreement between us and shall prevail over your own terms and conditions and any previous terms and conditions, agreement, representation, warranty undertaking or understanding.
- 2.2 You and we each agree and expressly represent to each other with the intention that the other shall be entitled to rely on the following representation and that you and we shall be estopped from denying it. You and we each represent to the other that in entering into this agreement neither you nor we and shall be entitled to rely on, and shall have no remedy at law, in equity or under the Misrepresentation Act 1967 in respect of any statement, representation or other understanding (whether oral or in writing) of any person whether a party to this agreement or not other than as expressly set out in or referred to in this agreement. Nothing in this clause shall preclude any liability for fraud.

3. Terms of Payment

- 3.1 The Monthly Payment shall be paid by you in advance on the first day of each month by direct debit. A signed direct debit form must be presented to us before we will make your website live. We will invoice you for a year's Support Services on placing an order and on each annual anniversary of placing the order. The first direct debit collection for the year will be a month's payment plus the total VAT for the year. Each 11 direct debit payments thereafter for the year will be for the monthly payment (net of VAT). If there is a termination during any year after the end of the Minimum Term, VAT will be refunded pro rata. Payment may alternatively be made by credit card – this must be done in full for a year when placing an order.
- 3.2 We reserve the right to vary the Monthly Payment by giving you two (2) months' notice in writing to take effect at any time on or after the expiry of the Minimum Term.
- 3.3 The provision of any Additional Services shall be charged in accordance with our price list from time to time. Our price list is available on our site and a copy will be forwarded on request.



- 3.4 You will be invoiced for the provision of any Additional Services on receipt of your order. All invoices will be payable within 30 days of the date of the invoice by direct debit.
- 3.5 Where no sum is included in the Monthly Payment or any prices set out in our price list in respect of VAT, these shall be exclusive of VAT.
- 3.6 We shall be entitled to charge you interest on any overdue amounts at the annual rate of 2% over the base rate of Lloyds TSB plc from time to time accruing on a daily basis and compounded monthly or part of a month until payment is made and this rate shall apply both before and after the issue of any legal proceedings we may take against you to recover any unpaid amount. We may claim interest under the Late Payment of Commercial Debts (Interest) Act.
- 3.7 YOUR ATTENTION IS SPECIFICALLY DIRECTED TO THIS CLAUSE 3.7 In the event that a payment is overdue then (provided that we have given notice of non-payment and five (5) working days have elapsed and payment has still not been made) we may then without further notice, and without prejudice to any other rights or remedies, suspend provision of the Services until such payment has been made. Suspension shall include the right for us to refuse access to your website. In the event of any such suspension, if you wish us to resume provision of the Services we shall be entitled to require payment in full of all Monthly Payments and any other amounts then outstanding in relation to the Services.
- 3.8 Time shall be of the essence for all payments due under this agreement.
- 3.9 You shall not be entitled to withhold from your payment of the Monthly Payment or your payment of any invoice any sums save if owed by us to you under this agreement. For the avoidance of doubt you may not withhold any monies due in respect of anything other than the Services or due to any other member of the MERCIA Group of companies.

4. Supply of Services

- 4.1 We shall use our reasonable endeavours to supply the Services in accordance in all material respects with this agreement. We shall use our reasonable care and skill in delivering the Services to you.
- 4.2 Subject as provided in clause 7, we shall use our reasonable endeavours to meet the performance dates specified, but such dates shall be estimates only and time shall not be of the essence for our performance. You acknowledge that where our performance is dependent upon the supply of information and/or materials by you, we will not be liable for any delay resulting from your failure to supply such information and/or materials.
- 4.3 We reserve the right to withdraw any special offers at any time.



5. Payment of Commission

- 5.1 Any fees payable by the Customer for the use of online services in your website will be paid via AccSys Business Consultants Limited online merchant account. Upon payment the Customer will receive a VAT receipt which will be electronically produced.
- 5.2 Where fees are payable to us but you are entitled to commission, any commission due to you will be paid by AccSys Business Consultants Limited on the 1st of January, 1st of April, 1st of July and 1st of October respectively.

6. Security and Data Protection

- 6.1 You and we shall each comply with the data protection legislation in force from time to time to the extent that such legislation applies to your and our activities as contemplated by this Agreement.
- 6.2 We undertake that we will maintain reasonable security measures to protect the security and integrity of any data stored on our system.
- 6.3 You undertake to obtain any consents needed from data subjects for the processing in the provision of the Services of any personal data supplied by you or on your behalf in accordance with the data protection legislation in force from time to time.

7. Termination

- 7.1 You or we may terminate this agreement by giving the other 30 days' notice in writing to expire at any time on or after the end of the Minimum Term.
- 7.2 Either party may terminate this agreement immediately if the other party becomes unable to pay its debts or enters into compulsory or voluntary liquidation (other than for the purpose of effecting a reconstruction or amalgamation in such manner that the company resulting from such reconstruction or amalgamation if a different legal entity shall agree to be bound by and assume the obligations of the relevant party under this Agreement) or compounds with or convenes a meeting of its creditors or has a receiver or manager or an administrator appointed of its assets or ceases for any reason to carry on business or takes or suffers any similar action which in the opinion of the party giving notice means that the other may be unable to pay its debts.
- 7.3 We may terminate this Agreement by giving you notice in writing if you commit any material breach of your obligations under it and (where such breach is capable of remedy) fail to remedy such breach within 30 days of receipt of our notice specifying such breach.
- 7.4 Without prejudice to clause 10.3 or any other provision of this agreement concerning the time for payment, we may terminate this agreement for late payment by giving you notice in writing if you are late in making any payment by more than twenty (20) days or if any three (3) consecutive payments are not made by the due date or if any three payments in any period of [twelve (12) months are not made by the due date.



8. Effect of termination

- 8.1 Upon termination of this Agreement we shall:
- 8.1.1 immediately take down your website from our server;
 - 8.1.2 make any of your data stored on the secure part of our server available for downloading by you for a period of 30 days;
 - 8.1.3 pay any commission due to you less any monies owing to us.
- 8.2 Upon termination of this agreement you shall:
- 8.2.1 immediately pay to us the balance of any monies due to us up to and including the date of termination;
 - 8.2.2 with effect from the date of termination immediately cease to use any of our materials, including (without limitation) information sheets, newsletters and technical or other website content.
- 8.3 Termination of this agreement shall be without prejudice to any accrued right of you or us.

9. Confidentiality

- 9.1 Neither you nor we shall without the prior written consent of the other disclose any information or data relating to the other or its commercial, financial, technical or other business activities or dealings, intellectual property rights, the Services we supply or any other secret or confidential information disclosed to one party by the other during the performance of the agreement (the "Confidential Information") to any other third party unless such disclosure is reasonably necessary for the proper performance of the agreement between us or is required by law.
- 9.2 In each case where one party is required or authorised to disclose any Confidential Information you or we (as the case may be) shall before doing so obtain a written undertaking from the person to whom the disclosure is made to keep confidential the Confidential Information and to only use it for the purposes for which the disclosure is made.

10. Notices

- 10.1 Any notice under this agreement to be given by either party to the other shall be in writing and shall be delivered by hand (which includes courier) or sent by first class pre-paid post or special or recorded delivery to the other party.
- 10.2 Notices to us shall be addressed to us at Best House, Grange Business Park, Enderby Road, Leicester LE7 6EP. Notices to you shall be addressed to you at the address detailed in your online order. Or in either case such other address as may from time to time be notified in writing by one party to the other.



- 10.3 A correctly addressed notice delivered by hand shall be deemed to have been received when delivered (or, if delivery is not during business hours at 9.00am on the first business day following delivery) or if sent by first class pre-paid post or special or recorded delivery shall be deemed to have been given two days after the envelope containing the same was so posted (excluding Saturdays, Sundays and bank and public holidays).
- 10.4 Any notice under this agreement shall not be validly served if sent by email or facsimile transmission.

11. General

- 11.1 If any provision set out in this Agreement is held by any competent authority to be invalid, unenforceable or illegal the other provisions shall remain in force.
- 11.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.
- 11.3 No failure or delay in exercising any right or remedy under this agreement or in law shall be construed or operate as a waiver thereof nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy. A waiver of a breach or default under this agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of the agreement. A waiver of a right under this agreement is only valid if it is in writing and applies only to the party to which it is given and the circumstances for which it is given. The rights and remedies provided in this agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 11.4 Neither you nor we shall be liable to the other if prevented from or delayed in performing our respective obligations under this agreement where the inability to perform those obligations is due to a reason beyond the reasonable control of you or us (as the case may be).
- 11.5 This agreement is personal to you. You shall not without our written consent be entitled to delegate or assign any of the obligations or rights arising under this agreement to any third party whatsoever.
- 11.6 We may subcontract, delegate, transfer, charge or assign our rights and/or obligations under this agreement in whole or in part.
- 11.7 Save as provided in clause 14.6, this agreement is made for the benefit of you and us and (where applicable) permitted successors and assigns and is not intended to benefit, or be enforceable by, any one else whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.
- 11.8 The agreement between you and us shall be governed by and construed in all respects in accordance with the laws of England.

Schedule of MERCIA totalSOLUTION Services

This Schedule is to be read in conjunction with and forms part of the MERCIA totalSOLUTION terms and conditions (“the terms and conditions”) which are available on the website at <http://www.mercia-totalsolution.co.uk/terms.pdf>.

References in this Schedule to MERCIA totalSOLUTION are as defined in clause 1.1 of the terms and conditions and references to the client are to you as defined in clause 1.2 of the terms and conditions.

For examples of the exact current contents and functionality of all the services detailed below review one of the demonstration websites at www.mercia-totalsolution.co.uk/what_demo.htm

Part 1 Support Services

1. Website Build

- i. MERCIA totalSOLUTION will provide a choice of at least 20 website designs. The design chosen by the client will be tailored to include corporate logos, colours, fonts and branding.
- ii. If the design requirements of the client cannot be achieved from one of the standard designs then MERCIA totalSOLUTION will advise the client before commencement of work and advise of any bespoke design fees. The client will have the option to terminate at this point if they wish.
- iii. MERCIA totalSOLUTION will provide a choice of 2 styles of brochure text (contemporary and traditional). This text will provide copy for home, about us, services, contact us and disclaimers. The chosen copy will be provided in Microsoft Word format for editing. The client will edit the chosen document as required and return it via email to totaltechnical@mercia-group.co.uk. Additional content can be added as required. This text will be used as the website text.
- iv. A help section and site map will be included in every site. These can be edited as required.
- v. The client will provide a copy of their logo in digital format or as a letterhead.
- vi. Upon receipt of the logo and edited website brochure text, MERCIA totalSOLUTION will build the website and make it available to the client in an online development area for review within 7 working days. Any corrections and amendments will be emailed to totaltechnical@mercia-group.co.uk. The site will only be made live once the client has given express instructions to do so.
- vii. The website will not be made live until payment has been received by cheque, or a signed DD mandate is in MERCIA totalSOLUTION's possession.
- viii. The website must be hosted on MERCIA totalSOLUTION's web servers.
- ix. Full instructions will be provided on how to amend domain name settings to direct the website traffic to the correct servers for hosting. This repointing can be achieved without affecting internet connectivity or email. Registration of the client's domain will remain with the existing ISP and ownership of the domain with the client.



2. Website Content

The following content is included:

- i. At least 70 factsheets covering a range of accounting, tax and business topics .
- ii. At least 8 new relevant news items will be added each month.
- iii. A set of simple online calculators.
- iv. A set of standard HMRC and Companies House forms.
- v. Historical market data, usually updated within 3 working days of the beginning of each month. Including interest rates, exchange rates, inflation rates, RPI and FTSE.
- vi. Budget and Pre-Budget reports to be available the day after the Chancellor's announcement.
- vii. A set of current tax rates and allowances.
- viii. A tax calendar, displaying the main tax deadlines and key dates.
- ix. A set of useful links.
- x. Topical news items ("hot potatoes") will be added to the website as deemed necessary by MERCIA totalSOLUTION editors.
- xi. Live news feeds from BBC and Reuters.
- xii. At least 4 factsheets ("freebies") covering topical items will be available to use with the online registration form.

3. Website Functionality

- i. News items added each month to the website will be emailed to all contacts subscribed to receive the monthly newswire in contactMANAGER (the website contact administration system). One email will be sent per month to each subscriber containing all of the month's news stories. These emails will use an email template to provide branding to include the client's logo and contact details. All emails sent will be "from" an email address designated by the client.
- ii. Website statistics will be available to the client through a secure online administration area, showing number of visits, unique visitors, pages visited and search engine traffic.
- iii. An online registration system will allow users to register on the client's website to receive mailings, free resources ("freebies") and access to password restricted areas. The registrant's details will be automatically added to contactMANAGER, a welcome email is sent to the registrant and an email will be sent to the client advising them of the online registration.



- v. contactMANGER will allow the client to add, bulk upload, edit and delete contacts. Contact groups can be created which allow the client to define groups for contacts and assign multiple groupings to a contact (eg partner / office / client type).
- vi. An unsubscribe system for all system emails sent which allows the recipient to click on a link to unsubscribe from future mailings. This will automatically unsubscribe the recipient in contactMANGER and send an email to the client advising them of the details.
- vii. Provision of resourceMANAGER, an online content management system which enables the client to edit the website resources. Any adding / editing of resources by a client will mean they take responsibility for future updates of those resources. The system will allow for resources to be "locked" so that users have to register or login to access them.
- viii. Provision of clientZONE, including DOCmanager and 250mb of online storage space. Any further space required can be purchased by contacting totaltechnical@mercia-group.co.uk.
- ix. Provision of eFORMS to create bespoke website forms.
- x. Provision of Christmas eCARD service, to send a Christmas message to all contacts within contactMANGER.
- xi. Provision of flipbooks, to generate a Flash version of PDF files.
- xii. Uploading of a banner image which can be merged into the top of PDF factsheets. This enables the factsheets to be branded with the client's details.
- xiii. Text only version of the website to provide improved accessibility for disabled users and mobile device users.
- xiv. Site search.
- xv. Access to email templates (for eNEWS, registration and Budget) through a secure online login to allow the client to edit these templates if they wish.

4. Ongoing Support

- i. The technical content will be updated as soon as reasonably practicable by the editorial staff of MERCIA totalSOLUTION as necessary to keep the content up-to-date and in line with the relevant legislation.
- ii. Any updates the clients wish to make within the brochure sections of the site will be emailed to totaltechnical@mercia-group.co.uk. These updates will be actioned by MERCIA totalSOLUTION within 2 working days.
- iii. All support questions are to be emailed to totaltechnical@mercia-group.co.uk.



- iv. When a website is made live a pack of information (including logins and user notes) will be posted to the client. An email will also be sent advising the client that the site is live.
- v. Support will be given to the client for bulk importing of contacts into contactMANAGER and emailing of a "welcome email" to each contact uploaded.

5. Miscellaneous

- i. MERCIA totalSOLUTION will build the website in a suitable format for search engine optimisation to the best of its industry knowledge and experience. This also includes the provision of search engine optimisation systems and reporting, to try and optimise the website positioning on the major search engines.
- ii. The client can upload a maximum of 1,000 contacts into contactMANAGER. Any further allocation required must be applied for to totaltechnical@merciam-group.co.uk. Additional allocations will be supplied at the discretion of MERCIA totalSOLUTION.
- iii. The client will be able to use a domain(s) they currently own as the address for the website. If they do not own a domain then MERCIA totalSOLUTION will obtain one for them at the client's cost for the purchase and ongoing registration.

6. resourceCENTRE and resourceCENTRE+

- i. MERCIA totalSOLUTION will provide links to a set of resource pages. These pages will be stylised to match the client's existing website.
- ii. The styling will be actioned within 7 working days of the availability of the client's website to which the branding will be matched, following an order being made.
- iii. The links will not be provided to the client until payment has been made by cheque or a signed DD mandate is in MERCIA totalSOLUTION's possession.
- iv. The links are to be added by the client or their website provider.
- v. The resourceCENTRE pages will be hosted on the MERCIA totalSOLUTION servers.
- vi. The resource pages for resourceCENTRE will include the following: 2.i, 2.ii, 2.iii, 2.iv, 2.v, 2.vi, 2.vii, 2.viii.
- vii. The resourceCENTRE+ package will also include the following systems: 2.ix, 3.i, 3.iii, 3.iv, 3.v, 3.vi, 3.vii, 3.viii, 3.xi. It will also include DOCmanager with 250mb of space.



Part 2 Additional Services

7. companyDATA

- i. Provide company and directors information through an online search.
- ii. Reports can be purchased online through an online shop and merchant account provided by MERCIA totalSOLUTION.
- iii. The provider of the data (Equifax) will be paid by MERCIA totalSOLUTION.
- iv. A 5% commission will be paid to the client on every report purchased.
- v. The companyDATA pages will be hosted on the MERCIA totalSOLUTION servers.

8. mailENGINE+

- i. Provide an email marketing system which can be accessed by the client through the secure online administration system.
- ii. Client can create a contact list from contactMANAGER, create an email to send using their own content and then schedule the email to send.
- iii. Client can send an unlimited number of emails from the system.
- iv. For the managed option the accountant can email the content and instructions to totaltechnical@merciam-group.co.uk. MERCIA totalSOLUTION will set-up the mailer and send it out for the client. This option allows for one mailshot to be sent per month.
- v. The mailENGINE+ system will be hosted on the MERCIA totalSOLUTION servers.

9. payperCLICK

- i. Google only: set-up and maintain pay-per-click advertising in Google for 6 phrases defined by the client and to a budget of £1.50 per day.
- ii. All search engines: provide pay-per-click advertising in Google and Overture for 6 phrases defined by the client and to a budget of £2.00 per day.



10. accountantSEO

- i. Provide search engine optimization of up to 15 key phrases (provided by the client) across the search engines.
- ii. Although top rankings on those searches cannot be guaranteed, MERCIA totalSOLUTION will use its reasonable endeavours to achieve as high a ranking as possible.
- iii. MERCIA totalSOLUTION can make no guarantees as to how quickly the search engine rankings will improve as this is determined by the search engines, but will use its reasonable endeavours to achieve higher rankings as quickly as possible.

11. DOCmanager

- i. DOCmanager is part of the clientZONE suite of products.
- ii. It offers secure document storage and exchange.
- iii. Website and resourceCENTRE+ customers get 250mb of space as part of their package.
- iv. Additional space can be purchased by contacting totaltechnical@mercia-group.co.uk