

WEB DESIGN AGREEMENT: CLIENT TERMS

By engaging us, you, the Client, agree to the following Client Terms (the 'Terms'):

'Fee' means the price for the Services or Project agreed in the Proposal.

'Project' means the work or activities described in the Proposal.

'Proposal' means the outline of our Services for your work or Project.

'Services' means the website design and development activities outlined in the Proposal and any other services that may be agreed in writing from time to time.

'Web Developer' means the person who is engaged and agrees to perform the website development Services for the Client.

1. DELIVERY OF SERVICES AND PROJECTS

- 1.1. The Web Developer agrees to deliver the Project by the deadline agreed in writing between the parties. In the event of any delay in delivery, the Web Developer will notify the Client to discuss and agree an alternate date. The Client acknowledges that any late provision of any materials, information or responses that the Web Developer may have requested or require may result in a delay to delivery of the Project. The Client acknowledges that the Web Developer is not responsible for any such delay.
- 1.2. The Fee will include a first version of the Project and limited to 1 reasonable revision or as otherwise agreed. A 'reasonable revision' means non-material, minor changes only. Any structural, substantial changes or new material not included in the original Proposal will be charged at the Web Developer's hourly rate at the time of the request.
- 1.3. Requested revisions must be returned to the Web Developer within 1 week of submission of the first version of the Project or as otherwise agreed. Any late delivery of revisions by the Client to the Web Developer may result in a delay to finalization of any Project as the Web Developer may have blocked their time out for other work and clients.
- 1.4. The Web Developer will complete and deliver the Project with the final revisions within 1 week of receiving revision requests; with the exception of any agreed Projects for which the Web Developer and Client have agreed an alternative timeframe.

2. CLIENT APPROVAL AND USE OF PROJECT MATERIAL

- 2.1. The Web Developer agrees that they will be the sole author of the Project or will use their own professional and qualified employees or contractors. The Web Developer shall be solely responsible for any employees or contractors they use to assist with any Project and will vet all final versions prior to presentation to the Client.
- 2.2. The Client is responsible for written or verbal approval required for the completion of the Project within the agreed timeframe. Payment of the invoice rendered by the Web Developer or any publication or use of the Project also constitutes formal approval of the Project.

3. WARRANTIES, ERRORS AND OMISSIONS

- 3.1. The Web Developer warrants that the Project material and design they provide as part of the Services is original and does not infringe the intellectual property of any third party. Where images or materials are provided as stock or purchased on a license basis, the Web Developer will ensure the Client has been assigned all rights to the license of any images or materials purchased.
- 3.2. While the Web Developer makes all efforts to ensure that the Project is reviewed and accurate where applicable, there is no guarantee that every Project is completely free from errors or missing content. The onus is on the Client to ensure all requested or required content is included in the Project and identification of any errors or changes required before final approval. In addition, as the Project and Services are based on the materials, content and information provided by the Client, the Web Developer is not responsible for errors occurring in the Project or work related to the Project after approval of the Project by the Client.
- 3.3. The Web Developer cannot control where and how any Project may be amended, posted, published or otherwise used by the Client and, for this reason, the Client agrees the Web Developer is not responsible for any Project or Services after they are provided and approved. Any materials, content and information provided by the Client which forms part of the Services or Project is the responsibility and liability of the Client. The Client will indemnify the Web Developer for any direct or indirect claims, including any third party claims, in relation to these materials or use of the Project. The Client warrants that all materials and content provided to the Web Developer are either owned by or licensed to the Client for the use provided.

4. CONFIDENTIALITY

- 4.1. 'Confidential Information' means all information of a confidential nature concerning the Client and its products, disclosed to the Web Developer by the Client and includes any written or oral information that is provided by or disclosed directly or indirectly through

any means that is not already in the public domain.

- 4.2. Materials and work may be provided to the Web Developer from time to time in order to enable provision of the Services. The Web Developer shall exercise due care not to disclose Confidential Information to any third party without express written permission of the Client and will only use the Confidential Information in order to enable the provision of the Services.
- 4.3. Despite anything contained in this clause, the Web Developer may disclose Confidential Information to the extent required by law or a regulatory authority.
- 4.4. During the term of this arrangement and after its termination, all information concerning fees, payment arrangements, terms and any other information disclosed by the Web Developer, shall be treated as Confidential Information by the Client.

5. WEB DEVELOPER WARRANTIES AND CLIENT ACKNOWLEDGEMENTS

The Web Developer warrants the following:

- 5.1. In providing the Services, they will comply with general law and industry standards.
- 5.2. The Project will be original and unique work and will not knowingly breach any third party rights.
- 5.3. The work performed to provide the Services will be done to a high standard in accordance with best practice.
- 5.4. The scope of the Services will be limited to the description provided in the Proposal, these Terms and as may be agreed in writing from time to time.

The Client agrees that:

- 5.5. They will provide all relevant information required for the Web Developer to carry out the Services in a timely manner.
- 5.6. They will supply the outline for the work and Services and any research material that the Web Developer may require to complete the Services, including any person to be available to respond to queries or additional information that the Web Developer may require to finalise the Project.
- 5.7. All work is completed based on and in accordance with the Client's instructions.

6. LIMITATION OF LIABILITY AND INDEMNITY

- 6.1. Legislation may confer certain rights, warranties and guarantees and remedies relating to the provision of the Services which cannot be excluded, restricted or modified, including but not limited to the Australian Consumer Law ('ACL'). At no time are these statutory rights sought to be excluded.
- 6.2. The Client agrees to indemnify and hold the Web Developer harmless from and against all claims, demands, regulatory proceedings and/or causes of action, and all damages, liabilities, costs (including settlement costs) or associated expenses (including legal fees) resulting from written or published material produced for the Client, or arising in connection with any information or material supplied by the Client, or from any act or thing done on the Client's instructions or with the Client's approval.

7. INTELLECTUAL PROPERTY ('IP') AND OWNERSHIP OF PROJECTS

- 7.1. Subject to full payment by the Client of invoices, all ownership and IP in content of the Project and Services belongs to, will be assigned to and will vest in the Client, subject to use by the Web Developer for promotional purposes. Any outstanding work, Projects and Services remain the property of the Web Developer and may not be used, altered, redistributed or published by the Client until payment in full has been made and received by the Web Developer.
- 7.2. Any variation to this IP and ownership clause must be agreed, in writing, by both parties prior to any payment being made.

8. IMAGES, GRAPHICS AND LOGOS ('IMAGES')

- 8.1. Generally, any Images required for any content of the Project is to be provided by the Client unless otherwise agreed. The Client takes full responsibility for ensuring their imagery is correctly licensed by a third-party designer, employee, freelance contractor for the purposes of the intended use or is otherwise owned by the Client.
- 8.2. If the Client is unable to prove that a valid license exists and was purchased, the liability of any infringement will fall on the Client. Any third party claims are to be managed by the Client and they agree to indemnify the Web Developer for any such claim.
- 8.3. From time to time, the Client may request the Web Developer to provide Images as part of the Services. All Images, materials and work are provided without warranties of any kind, both express and implied. In the event of any such request by the Client for Images, the Client agrees to pay any additional fees for licensing or use as may be incurred and invoiced by the Web Developer.

- 8.4. As a consequence of engaging the Services, the Web Developer has the right and permission to use the Client's name and logo for their own business promotional and advertising purposes. If the Client does not wish to have their name and logo used for such purposes, they agree to inform the Web Developer in writing of such refusal and the Web Developer agrees to remove any reference to the Client in relation to their business and Services.

9. INVOICES, PAYMENT AND CANCELLATION

- 9.1. The Client agrees to pay all invoices by the date specified in the invoice. Any late, overdue or unpaid invoice amounts will incur penalty interest at the interest rate stated in the invoice or otherwise at the annual rate of 10% pro rata.
- 9.2. As the Web Developer has set aside time for completing the work, and once the Client approves the Project, all monies are non-refundable. Any cancellation of work or Project, once confirmed by the Client, will forfeit any deposit. Where there is no deposit paid in advance, the full amount of the Project, as stated in the Proposal, becomes immediately due and payable.
- 9.3. In the event that the Client fails to pay any invoices in accordance with the terms of the invoice, these Terms or does not perform their obligations under these Terms, the Web Developer may refuse to continue to provide the Services and may terminate the arrangement immediately without notice. The Web Developer may also commence proceedings to collect any outstanding debts owed.
- 9.4. In the event of any dispute on the work, quality or ownership, the Client and Web Developer both agree to obtain an independent professional arbitrator/dispute resolution specialist to make a determination on the dispute and to pay their own costs.

10. RELATIONSHIP

- 10.1. The relationship under these Terms is that of principal and independent contractor. At no time is the Web Developer a partner, agent, employee or joint venture partner of the Client. No act or omission of either party is to bind the other party except as expressly set out in these Terms.

11. GOVERNING LAW

- 11.1. This agreement is governed by the laws from time to time in force in the State of jurisdiction in Australia of the Web Developer. The Client and the Web Developer agree to unconditionally submit to the exclusive jurisdiction of the Courts of this State in Australia for determining any dispute concerning this agreement.