

## TERMS AND CONDITIONS

These terms and conditions form part of your contract with Web Media Group Pty Ltd ACN148856893 atf Web Media Group Trust ABN36509413474 (WMG) for the supply of products and services by WMG to you as the user of the products and services. By signing the contract you acknowledge that you have read these terms and conditions and agree to be bound by them.

### 1 Definitions and Service/Product Descriptions

**Animation means** a simulation of movement created by displaying a series of pictures or frames.

**CMS means** content management system and is a system that allows the client to change specific content (text, images) of the website.

**Content writing means** text written by WMG for your website, marketing related projects, etc. and excl. descriptions/texts for products/services for e-commerce.

**Domain name means** a series of letters and numbers separated by periods (ie. www.webmediagroup.com.au), serving as an address for a computer network connection; registered by WMG with a domain name registrar under WMG's title/account for 1 or 2 years as available by providers and invoiced to you annually.

**E-Web / E-Commerce means** features of the website that support the sale of products/services via the internet. An E-Web website is a basic form of such a website, typically for a small number of products and without a shopping cart. WMG utilises PayPal as its only payment facility incorporated into the client's website unless specified otherwise. Product details (text, images) will be uploaded by client. These details do not form part of general content writing for the website.

**Facebook or Twitter – 3 or 5 posts / week means** the number of posts/small texts posted/placed on your facebook site/page by WMG each week. This number can sometimes vary due to shorter business weeks, et cetera.

**Google local set up means** the Google facility 'Google local', as described by Google, set up and initiated by WMG.

**High profile photographer means** an esteemed photographer chosen by WMG.

**Hosting (website/email) means** that WMG will store, maintain and keep your website (programmed files)/email accounts available on a secure device (web server). Email addresses created by WMG will have the domain name attached to your requested user name; for example username@yourdomainname.com.au.

**Keywords means** the words/phrases a user enters into the Google search engine to find specific types of websites.

**Photo gallery means** a section of the website that is dedicated to view photos uploaded by the client or internet user.

**Photo slide show means** a fixed image window that rotates a small number (typically 3-5) of different pictures within this allocated place.

Photo/image rich websites require more time to load the website; hence might be considered a slower website, while believed to have a better advertising affect. The customer acknowledges a trade-off between these two believed facts.

**Portal facility means**, for instance, a feature that provides access to specific sections of the client's website for their members/employees/customers.

**PPC/Google AdWords means** pay per click and is an internet advertising model used to direct traffic to the website, where advertisers pay (the nominated bid amount) the publisher (ie Google) when the ad is clicked. It is WMG's discretion to allocate a spending budget for any PPC campaign/bid.

**SEO means** search engine optimisation and is the process of improving the ranking of a website in search engines search results. We optimise primarily for Google. If not stated otherwise, your website will be optimised for up to five keywords, selected by WMG.

**Shopping cart means** a virtual shopping cart that collects/retains your selected items selected for purchase, while shopping on an e-commerce website. It calculates item price, quantity, postage, et cetera and checks the purchaser out via a payment facility such as PayPal.

**SMM means** social media management, ie, positive utilisation of facebook to direct the perception of your customers in support of your marketing endeavours.

**Subscription means** a fixed term/period of a service provided by WMG

**Video clip implementation means** that WMG will develop the website to accommodate video clip streaming/viewing.

**Video clip production means** that WMG will produce a video clip to the client's specifications.

**Videography means** a highly animated photo/image show over a certain period of time with audio support.

**WSD business means** website development for up to 20 pages.

**WSD corporate means** a website development for a stipulated number of pages.

### 2 Term

2.1 Your contract with WMG commences from the date specified on the contract until terminated in accordance with these terms and conditions.

2.2 Contracts for a fixed period (for example, website hosting, e-mail hosting, search engine optimisation and social media management) will automatically renew for a further fixed period of the same term at the end of the contract. If you do not wish to continue with the product or service, you must terminate your contract by notifying WMG in writing at least 7 days prior to the expiry of the fixed term (unless WMG varies these terms and conditions during that 7 day period in which case you may terminate the contract within 7 days after that variation becomes effective).

### 3 Amendment

3.1 WMG may vary these terms and conditions, including fees and charges for any of its products and services at its discretion from time to time. Subject to clause

3.2 such changes will become effective upon the publication of a notice on WMG's website or in writing to you.

3.2 For fixed period contracts, any changes made will apply from the next renewal of contract.

3.3 Your continued use of the product or service will constitute an acceptance of the amendments.

### 4 Payment

4.1 WMG will issue an invoice to you for the entire product or service (including those under fixed period contracts) by email, mail or hand delivery. You must pay all amounts stated on the invoice within 14 days of the date of invoice.

4.2 If no payment is received by WMG after 28 days from the date of invoice, WMG has the right to commence actions against you to recover the amounts owing. This includes the use of legal services and/or debt collection agencies. You will be liable for all costs incurred by WMG for taking such actions against you.

4.3 WMG also has the right (without giving you any notice) to discontinue or switch-off any products or services supplied to you when you are in default of payment for more than 28 days.

4.4 Payments may be made to WMG through its available payment methods. Service fees and charges may apply for certain payment methods. WMG will apply payments made by you against outstanding invoices at its discretion.

4.5 If you have selected a direct debit facility or have registered your credit card account with WMG, you authorise WMG to debit your nominated account for amounts payable under this contract or any future contract you enter into with WMG from the date when the relevant contract is created not withstanding that this may be earlier than the invoice date. WMG will not be liable for any fees, charges, loss or damages caused as a result of any errors in the transaction process made by us or a third party involved in the transaction process.

### 5 Your Obligations

5.1 When requested, you must provide WMG your personal and/or business details including name, address, telephone number, email address and your bank account or credit card details.

5.2 You must ensure that the information you provide to WMG is correct and up to date so that you are able to receive correspondence from WMG. All correspondence sent by WMG to your nominated mailing and/or email address are deemed to be delivered to you: in the case of email – on the day the email was sent, and in the case of mail – on the day calculated in accordance with the ordinary course of post by Australia Post.

5.3 You must keep your usernames and passwords strictly confidential. WMG will not be liable for any claims, suits, demands, liabilities, losses, costs and expenses arising out of or in connection with the use of your username and password by you or any other person.

5.4 You have the responsibility to provide WMG with:

(a) all information, data, designs, graphics, logos and related materials to be incorporated into the product or service; and

(b) any other information, ideas or suggestions which are to be expressly considered by WMG in creating the product or service.

5.5 You must promptly review all drafts and proofs which WMG may send you and notify WMG of any errors or areas which need further adjusting. Your acceptance of drafts and proofs may be communicated by email or in writing to WMG. Any changes or amendments requested after drafts and proofs have been accepted will incur additional charges.

5.6 It is a deemed default and breach of contract by you if WMG forms the view that the contract cannot be completed in a financially rewarding and business-like manner as a result of your unreasonable conduct such as the use of inappropriate language, no communication, unreasonable demands and unreasonable delay in responding to WMG's requests.

5.7 You acknowledge and accept that the final product or service:

(a) may not have the exact same colour, sharpness or alignments as the draft or proof WMG sent you (which may be due to the use of different visual media, formatting or monitor displays); and

(b) may not produce the intended marketing effect or results as expected (for example, search engine ranking, visitor count and social media profile fan base), whether or not it is in WMG's control.

5.8 Nothing in these terms and conditions will affect WMG's right to exercise its own judgement, creative skills and discretion to develop the product or service in accordance with the contract. WMG maintains the right to alter or remove any part of any design or development which it considers inappropriate, offensive or defamatory.

5.9 You, the client, and any entity in which the client or manager of the client has an interest in, undertakes to WMG that it will not for a period of two years from the termination of this agreement or any subsequent fixed periods entice away or endeavour to entice away from WMG any employee of WMG.

### 6 Your Warranties and Indemnities

6.1 You represent and warrant that the information and/or material you provide to WMG:

(a) is information and/or material that you are authorised to provide;

(b) is not defamatory or offensive in relation to and does not adversely affect any product, service, person, corporation or organisation;

(c) does not infringe any intellectual property rights, including copyrights, trademarks, designs, patents, confidential information and trade secrets of others, and where such rights are affected, you warrant that you have obtained all necessary permission, authorisation, licences and consents in relation to the use and incorporation of those materials;

(d) is not misleading or deceptive or likely to mislead or deceive, and does not constitute unfair competition;

(e) does not breach any State or Federal legislation, regulation or law in Australia; and

(f) will not give rise to any claims or liabilities against WMG.

6.2 You indemnify WMG and its directors, officers, agents, contractors, suppliers, partners and employees, from and against all actions, claims, suits, demands, liabilities, losses, costs and expenses arising out of or in any way connected with:

(a) your breach of the contract and these terms and conditions (including each warranty or representation);

(b) your use or misuse of the product or service supplied to you, whether in your personal capacity or in connection with conducting your business;

(c) the use or misuse of the product or service by any other person using your account; and

(d) the publication of defamatory, offensive or otherwise unlawful material on any product or service supplied to you.

### 7 WMG's Obligations and Liabilities

7.1 WMG will use reasonable care and skill to create, develop and provide products and services in accordance with your instructions and the contract.

7.2 WMG cannot guarantee an exact completion time for any of its products and services as the development process generally involves many factors outside of WMG's control, including the use of third party equipment and services.

7.3 WMG ensures that its products and services will be compatible with the latest three versions of the most used internet/web browsers on the market (at the time of product completion) comprising not less than 80% of the market share, excluding mobile phone applications and where selected product features do not allow for compatibility with the relevant internet/web browser.

7.4 Where it is not specified in the contract, WMG has discretion in allocating the bandwidth, storage size and other technical features to its products and services.

7.5 WMG has no obligation to provide any user manuals, set-up support/training for any of its products/services, but may do so at your request at additional costs.

7.6 It is at WMG's discretion as to how and when to respond to technical problems or issues in the course of developing and providing the product or service, including any issues or problems associated with your use/operation of any software, application or service platforms in connection with the product/service.

7.7 WMG will not be liable for:

(a) the operation and contents of any other websites which may be linked to WMG's website;

(b) any interruption, defect, failure, delay, loss or damage resulting from any technical failures, events or circumstances outside of WMG's control, including but not limited to external intruders/hackers, computer viruses and failure or default by other suppliers;

(c) any inappropriate content produced by WMG, its employees or other suppliers, whether unintentionally or otherwise in the course of supplying the product or service; and

(d) in relation to domain name registrations, any failure to register or purchase a nominated name as a result of delay by you, WMG or other parties.

7.8 WMG accepts liability:

(a) to you in respect of any rights conferred on you where not to do so would be illegal or make any part of this clause 7.8 void or illegal; and

(b) under any consumer guarantees which apply to your contract (to the extent that they cannot be excluded) under the Competition and Consumer Act 2010 (Cth) save that to the extent permitted by law our liability under a consumer guarantee is limited to:

(1) in the case of services:

(i) the supply of the services again; or

(ii) the payment of the cost of having the services supplied again; and

(2) in the case of goods:

(iii) the replacement of the goods or the supply of equivalent goods;

(iv) the repair of the goods;

(v) the payment of the cost of replacing the goods or acquiring equivalent goods; or

(vi) the payment of the cost of having the goods repaired.

7.9 Except as provided in clause 7.8:

(a) WMG excludes all warranties and conditions implied into your contract; and

(b) where WMG is liable for any loss or damage, however caused, in contract or tort (including negligence), or under any legislation or otherwise arising from or relating in any way to this contract, WMG's liability is limited in aggregate to the fees paid by you for the product/service in the previous 12 month period.

### 8 Termination

8.1 You may only terminate a fixed period contract (including a fixed period contract the term of which has automatically been renewed) in accordance with clause 2.2. To avoid any doubt, a fixed period contract is for the entire fixed period and cannot be terminated by you before that fixed period expires except in accordance with clause 2.2.

8.2 WMG may without prior notice suspend, limit or deny you access to any of the products and services or terminate this contract if you breach these terms and conditions, including failure to pay outstanding invoices (cl.4.3). WMG may otherwise terminate this contract or cease supply of any products or services for any reason on 28 days written notice to you, except for fixed period contracts in which case the notice will not expire before the end of the fixed contract period.

8.3 Notwithstanding any suspension or termination of WMG's products and services, you remain liable for all payments due under the contract.

8.4 You acknowledge that the cancellation of a product or service may have materially prejudicial consequences to the function, performance and availability of services previously provided by WMG (for example, the availability of an email address or domain name after service is cancelled).

### 9 Intellectual Property

9.1 WMG owns all intellectual property rights and moral rights in all products and services created, designed or developed by WMG.

9.2 You grant WMG a perpetual non-exclusive royalty free licence to use any of your original material that is incorporated in the design and content of the final product or service. This includes the use of your name and logo on WMG's website, brochures or print-outs for advertising purposes.

### 10 Miscellaneous

10.1 You may not resell any products or services supplied by WMG or assign your rights and obligations under this contract without WMG's prior written consent.

10.2 No right under this contract is waived or deemed to be waived except by notice in writing signed by the party waiving the right.

10.3 Where any clause or part of that clause is void, illegal or unenforceable it may be severed without affecting any other part of this contract.

10.4 This contract is governed by the laws of the State of Western Australia.