

# TERMS & CONDITIONS

## Introduction

This document defines the terms and conditions of our working relationships. All services that Hungry Dog Enterprises PTY LTD may be contracted to produce or provide will be subject to the following:

## Our Commitment to you

- i) We respect our CLIENT's confidentiality (Item 7).
- ii) If the CLIENT determines that the website does not comply with the project components agreed to in this document, Hungry Dog Enterprises PTY LTD agrees to carry out any necessary and reasonable modifications without extra charge (Item 17).
- iii) We use open source solutions wherever possible, meaning no software licensing fees or vendor lock-in (Item 18).

## Definitions

As used herein and throughout this Agreement:

- "Agreement" means the entire content of this Basic Terms and Conditions document, the Statement of Work, together with any other Supplements, together with any exhibits, schedules or attachments hereto.
- "Content" means all materials, information, photography, writings and other creative content.
- "Copyrights" means the property rights in original works of authorship, expressed in a tangible medium of expression, as defined and enforceable under Australian and International Copyright Law.
- "Deliverables" means the services and work product specified in the Statement of Work to be delivered by Hungry Dog Enterprises PTY LTD to the Client, in the form and media specified in the Statement of Work.
- "Services" means all services and the work product to be provided to Client by Hungry Dog Enterprises PTY LTD as described and otherwise further defined in the Statement of Work.
- "Trademarks" means trade names, words, symbols, designs, logos or other devices or designs used in the final deliverables.
- "Open Source Software" means computer software for which the source code and certain other rights normally reserved for copyright holders are provided under a software license that meets the Open Source Definition or that is in the public domain.

## 1. Authorization:

The CLIENT authorizes Hungry Dog Enterprises PTY LTD to perform the services outlined in the Statement of Work on the CLIENTS' behalf, which may include, but is not limited to, accessing their hosting account and disk space, creating databases and applications, and submitting the project to search engines.

## 2. Agreement Scope

Services supplied, costs and rates are limited to what is specifically set forth in the Statement of Work. Any additional services will require a new agreement

## 3. Working/Billing Phases

For each project, the CLIENT will receive a proposal/estimate outlining the project specifications and the proposed scope of services and working/billing phases. Each proposal estimate will contain a project budget, which includes estimated fees for professional services and separate itemized costs for anticipated outside expenses. We will begin work upon the CLIENT's approval of the Statement of Work. The CLIENT's authorized approval or payment of deposits will constitute an Agreement between us. Concept revisions, extensive alterations, or a switch in marketing objectives sometimes makes it impossible to accurately estimate in advance the total cost of a project. Planning the work, cost estimating, and billing in several phases permits Hungry Dog Enterprises PTY LTD or the CLIENT to adjust for such revisions before completion of the project.

## 4. Costs and Fees

Changes and additions outside of the scope of this document will be quoted and invoiced to the CLIENT. The CLIENT will be advised of all costs, changes and additions before commencement of the additional work. Fees for professional services do not include outside purchases such as, but not limited to, software licensing, copyright licensing, printing, photography, color printouts, laminating, illustrations, shipping and handling or courier service. Expenses are itemized on each invoice.

## 5. Production Schedules:

Knowledge of the CLIENT's deadlines is essential in order to provide an accurate estimate. Production schedules will be established and adhered to by both the CLIENT and Hungry Dog Enterprises PTY LTD. Where production schedules are not adhered to by the CLIENT, final delivery date or dates will be adjusted accordingly. Additional costs may be charged for CLIENT delays, if the delays result in an increase in time to manage or deliver the services.

**6. Payment 6.1** The CLIENT agrees to pay Hungry Dog Enterprises PTY LTD in accordance with the terms specified in each proposal/estimate and the Statement of Work.

**6.2** If The CLIENT fails to pay any invoice, Hungry Dog Enterprises PTY LTD reserves the right to withdraw the website and associated materials or refuse completion and/or delivery of work until past due balances are paid. All materials or property belonging to the CLIENT, as well as work performed, may be retained as security until all just claims against the CLIENT are satisfied. Hungry Dog Enterprises PTY LTD will charge a late Payment fee of 15% per month on the outstanding amount. The CLIENT is responsible for any debt collection fees which may come due.

**6.3** In the event of cancellation of the project prior to Completion, The CLIENT must pay Hungry Dog Enterprises PTY LTD a fee for work completed, based on the contract price and the expenses already incurred.

## 7. Confidentiality

Hungry Dog Enterprises PTY LTD will not disclose to any third party or use, other than for the purposes of this Agreement, any knowledge or information imparted to or obtained by it during or in connection with the fulfillment of this Agreement, which is of a secret or confidential nature relating to the business, equipment, processes relating to the equipment, the products, services, process or business strategies offered or employed by the CLIENT. This obligation of confidence will cease to apply in relation to information that Hungry Dog Enterprises PTY LTD is required to disclose by any law, or which becomes part of the public domain other than as the result of a breach by Hungry Dog Enterprises PTY LTD of its obligations of confidence under this Agreement.

## 8. Subcontractors

Hungry Dog Enterprises PTY LTD reserves the right to assign subcontractors or external suppliers. Any subcontractors or external suppliers will be bound to the terms of this agreement.

## 9. Promotion

The CLIENT agrees that Hungry Dog Enterprises PTY LTD has the right to use the CLIENT's website, associated graphics and any unused ideas and development in the promotion of Hungry Dog Enterprises PTY LTD services. The CLIENT agrees to not remove the Hungry Dog Enterprises PTY LTD credit and link from the footer of the website.

**10. CLIENT Copyright 10.1** After acceptance of the website and payment of all sums due by the CLIENT, Hungry Dog Enterprises PTY LTD agrees to assign perpetual and unrestricted copyright to use any materials produced by Hungry Dog Enterprises PTY LTD on behalf of the CLIENT as outlined in this agreement including website and associated graphics to the CLIENT.

**10.2** Hungry Dog Enterprises PTY LTD reserves all rights over working and source files, content produced or supplied by Hungry Dog Enterprises PTY LTD as well as the website design itself. The CLIENT does not have the right to resell, reuse or re-purpose any design or content supplied as part of this agreement unless specified.

## 11. Force Majeure

Hungry Dog Enterprises PTY LTD shall not be deemed in breach of this Agreement if Hungry Dog Enterprises PTY LTD is unable to complete the Services or any portion thereof by reason of fire, earthquake, labor dispute, act of God or public enemy, death, illness or incapacity of Hungry Dog Enterprises PTY LTD or any local, state, federal, national or international law, governmental order or regulation or any other event beyond Hungry Dog Enterprises PTY LTD's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, Hungry Dog Enterprises PTY LTD shall give notice to Client of its inability to perform or of delay in completing the Services and shall propose revisions to the schedule for completion of the Services.

## 12. Limitation of liability

The services and the work product of Hungry Dog Enterprises PTY LTD are sold "as is." In all circumstances, the maximum liability of its Designers, Directors, Officers, Employees, Design Agents and Affiliates ("Hungry Dog Enterprises PTY LTD parties"), to client for damages for any and all causes whatsoever, and client's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, shall be limited to the net profit of Hungry Dog Enterprises PTY LTD. In no event shall Hungry Dog Enterprises PTY LTD be liable for any lost data or content, lost profits, business interruption or for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to the materials or the services provided by Hungry Dog Enterprises PTY LTD even if Hungry Dog Enterprises PTY LTD has been advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

## 13. Termination

Either party may terminate this Agreement by giving fourteen (14) days written notice to the other of such termination. In the event that Work is postponed or terminated at the request of the CLIENT, Hungry Dog Enterprises PTY LTD shall have the right to bill pro rata for work completed through to the date of that request, while reserving all rights under this Agreement. If additional payment is due, this shall be payable within fourteen (14) days of the Client's written notification to stop work. In the event of termination, the Client shall also pay any expenses incurred by Hungry Dog Enterprises PTY LTD and Hungry Dog Enterprises PTY LTD shall own all rights to the Work. The Client shall assume responsibility for collection of all legal fees necessitated by default in payment.

## 14. Domain Names

**14.1** All domain names are legally owned by the CLIENT. All domain name registrations are subject to availability and registration rules. The CLIENT manages their domain(s) and payment of fees unless the CLIENT requests in writing that Hungry Dog Enterprises PTY LTD manage the domain name(s) on behalf of the CLIENT. Hungry Dog Enterprises PTY LTD will then invoice the CLIENT when fees are due. The CLIENT must supply all relevant business details to allow for registration if Hungry Dog Enterprises PTY LTD agrees to register the domain(s) on behalf of the CLIENT. Hungry Dog Enterprises PTY LTD will support the CLIENT to move the domain to a CLIENT controlled registrar if the CLIENT is no longer using Hungry Dog Enterprises PTY LTD services.

**14.2** Hungry Dog Enterprises PTY LTD uses goDaddy LLC (referred to as REGISTRAR) to manage our CLIENTS's domain names. CLIENTS are bound by the REGISTRARS's "Domain name registration terms" which are found on their website: <http://community.godaddy.com/help/2000/12/01/domain-name-registration-agreement/>

**14.3** The CLIENT indemnifies Hungry Dog Enterprises PTY LTD against any loss or damage arising directly or indirectly from any failure of services provided by the REGISTRAR.

## 15. Browser Variance

Our websites are built for xhtml compliant browsers and Internet Explorer (IE). We test using the browsers that are statistically the most commonly used. The layout may change in older browsers. Websites are tested on:

- Internet Explorer version 8
- Firefox version 4
- Safari version 4
- Google Chrome

Hungry Dog Enterprises PTY LTD will test and optimize for additional browsers and versions if requested by the CLIENT before commencement of the project.

## 16. Colors

Website visitors use different monitors with different settings. Colors of the website including graphics and photography will shift (darker or lighter) between computers and monitors.

## 17. Testing and Acceptance of the Website

Once the project has, in the opinion of Hungry Dog Enterprises PTY LTD been completed, Hungry Dog Enterprises PTY LTD will notify the

CLIENT either verbally or in writing, and provide the CLIENT with an opportunity to test and review the website. If the CLIENT determines that the website does not comply with the Project Components agreed to in this document, Hungry Dog Enterprises PTY LTD agrees to carry out any necessary and reasonable modifications without extra charge.

## 18. Open Source Software

**18.1** Hungry Dog Enterprises PTY LTD makes extensive use of Open Source software and components to supply websites and services to the CLIENT. No licensing Fees will be charged on open source software.

**18.2** The CLIENT indemnifies Hungry Dog Enterprises PTY LTD against any loss or damage arising directly or indirectly from any failure of software supplied to the CLIENT.

**18.3** All software and components not developed by Hungry Dog Enterprises PTY LTD retain the original license and terms associated with them. Hungry Dog Enterprises PTY LTD cannot assign any rights to the CLIENT and the CLIENT agrees to be bound by the original Author's terms.

## 19. Website and Data

**19.1** Upon the end of our agreement, The CLIENT is free to transfer their website management to another service provider. Hungry Dog Enterprises PTY LTD will supply the last backup of the site and associated databases. Hungry Dog Enterprises PTY LTD will take all reasonable actions to transfer the CLIENT'S domain name to a new registrar.

**19.2** If the CLIENT chooses to move to a new supplier, Hungry Dog Enterprises PTY LTD will cease providing the service of storing the CLIENTS data including backups and content.

**19.3** It is the CLIENT's responsibility to pay any costs to transfer and/or install the website and data on a new service.

## 20. Client Responsibilities

If the CLIENT or an agent of the CLIENT other than Hungry Dog Enterprises PTY LTD attempts to update, edit or alter the site's pages, infrastructure, source files or hosting management in a way that causes damage to individual pages or the site's architecture, time to repair web pages will be assessed at our current STANDARD or OVERTIME hourly rate, and is an additional cost above the costs outlined in the Statement of Work.

## 21. Copy

All text must be supplied in digital format (TXT, RTF, HTML, MS Word, Open Office). Extra costs will apply if Hungry Dog Enterprises PTY LTD is required to transcribe copy, if the copy requires reformatting or needs to be edited or rewritten.

## 22. Images

Graphics and photographs are to be supplied in digital format to Hungry Dog Enterprises PTY LTD. Photographs must not exceed a file size of 5mb each (unless by prior arrangement). Larger files will incur an extra cost due to increased time in processing.

## 23. Branding

All logos and branding must be provided in a professional format (preferences are: EPS, PDF in vector format, Illustrator and Freehand). We also accept bitmaps such as JPEG, GIF and Photoshop files. If supplied in a low-resolution bitmap format, Hungry Dog Enterprises PTY LTD cannot be held responsible for image quality. If the logo is in bitmap format and the background needs to be removed to integrate the logo into the design, extra costs may be incurred. Logos can be created or reproduced by Hungry Dog Enterprises PTY LTD for an additional fee.

## 24. Copyrights

**24.1** The CLIENT is responsible for all trademark, servicemark, copyright and patent infringement clearances. The CLIENT is also responsible for arranging, prior to publication, any necessary legal clearance of materials Hungry Dog Enterprises PTY LTD uses for this project. The CLIENT indemnifies Hungry Dog Enterprises PTY LTD against any loss or damage arising directly or indirectly from any unauthorized use of photographs, text, or other Intellectual Property not under copyright ownership of the CLIENT .

**24.2** Hungry Dog Enterprises PTY LTD has existing relationships with various industry organizations that license content and may manage copyrighted content on behalf of the CLIENT. Hungry Dog Enterprises PTY LTD makes no claim of ownership over these materials. All copyrighted material, not developed by Hungry Dog Enterprises PTY LTD retain the original license and terms associated with them. Hungry Dog Enterprises PTY LTD cannot assign any rights to the CLIENT and the CLIENT agrees to be bound by the Copyright Holder's terms.

**25. Errors and Omissions**

It is Hungry Dog Enterprises PTY LTD's responsibility to check carefully for accuracy in all respects, ranging from spelling to technical illustrations. However Hungry Dog Enterprises PTY LTD is not liable for errors or omissions. The CLIENT's signature or written authorization or that of an authorized representative is required on all work prior to release for publishing or other implementation. The CLIENT indemnifies Hungry Dog Enterprises PTY LTD against any loss or damage arising directly or indirectly from any errors and omissions.

**26. Revisions**

Hungry Dog Enterprises PTY LTD will provide all necessary drafts and revisions until final design, and site approval is given by client. Additional revisions outside of this scope, or after approval has been given, will be charged under our current standard rates.