

terms & conditions : website design

PLEASE READ THE TERMS & CONDITIONS LAID OUT BY WAGTAIL DESIGNS. WE ARE NOT A LENDING INSTITUTION AND THAT (FOR US TO CONTINUE TO PROVIDE YOU WITH HIGH QUALITY AND EFFICIENT SERVICE AND PRODUCTS) IT IS IMPORTANT YOU ADHERE TO THE CONDITIONS YOU AGREE TO WITHIN.

THESE CONDITIONS, WHICH ARE CONSTRUED UNDER AUSTRALIAN LAW, ARE APPLICABLE TO WAGTAIL DESIGNS AND SHOULD BE READ IN CONJUNCTION WITH OTHER DOCUMENTS AND/OR THE CORRESPONDENCE COMPRISING OUR OFFER.

THE CONTRACT FOR ALL WEB BASED SERVICES ARE TO BE BASED ON THE CONDITIONS HEREIN OR DETAILED IN THE CONTRACTUAL ESTIMATE/QUOTATION(S).

1 GENERAL TERMS

- 1.1 This agreement is entered into between WagTail Designs (hereinafter referred to as "company") and the purchaser of services or goods from the "company" (hereinafter referred to as "Client").
- 1.2 These terms apply to all WagTail Designs clients from the first point of financial contact.
- 1.3 These Terms & Conditions supersede any previous Terms & Conditions distributed in any form. WagTail Designs reserves the right to change any rates and any of the Terms at any time and without prior notice.

2 WEB MEDIUM TERMS

- 2.1 WagTail Designs will develop Clients on WagTail Designs demo server. The Client must check design, functionality and content. The site will remain at this location until the Client has approved, signed off and paid for the site. (Hosting, domain and/or design)
- 2.2 Once web design is complete, WagTail Designs will provide the Client with the opportunity to review the resulting work. WagTail Designs will make one set of minor changes at no extra cost within 14 days of the start of the review period.

Minor changes include small textual changes and small adjustments to placement of items on the page. It does not include changes to images, colour schemes or any navigation features. Any minor changes can be notified to WagTail Designs.
- 2.3 WagTail Designs will consider that the Client has accepted the original draft, if no notification of changes is received in writing from the Client, within 14 days of the start of the review period.
- 2.4 **DOMAIN REGISTRATION**
WagTail Designs cannot guarantee the availability of any domain name. Where WagTail Designs 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.
- 2.5 **SEARCH ENGINE RANKINGS**
Due to the infinite number of considerations that search engines use when determining a site's ranking, WagTail Designs 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.
- 2.6 **WEB HOSTING**
If the Client wishes to organise web hosting arrangements internally, final exported sites will be uploaded to the Clients preferred host company.

2 FEES

2.1 MAINTENANCE FEES

Maintenance shall be payable on a month to month basis from the agreed contract start date. Maintenance work will not take place if payment is late.

3 PERMISSION ACCESS

- 3.1 The Client agrees to allow WTD 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.
- 3.2 The Client also agrees to allow WTD access to any computer systems, usernames and passwords required to remove data and/or sites for failure to comply with these Terms & Conditions.
- 3.3 The Client agrees to supply WTD with all necessary materials, electronic, or otherwise, required to create and complete the project, and to supply them in a timely manner.

4 INTELLECTUAL PROPERTY

4.1 OFFERS & PROPOSALS

Offers and proposals made by WagTail Designs to potential clients should be treated as trade secrets and remain the property of WagTail Designs. Such offers and proposals or the information contained within them must not be passed to third parties or publicly disseminated without prior written authorization from WagTail Designs. This includes, but is not limited to, technical features, functionality, aspects of the design and pricing information.

4.2 WARRANTY BY CLIENT AS TO OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

The Client will obtain all the necessary permissions and authorities in respect of the use of all copy, graphic images, registered company logos, names and trademarks or any other material it supplies to WagTail Designs for inclusion on the Website. The conclusion of a contract between WagTail Designs and the Client shall be regarded as a guarantee by the Client to WagTail Designs that all such permissions and authorities have been obtained and that the inclusion of such material on the Website would not constitute a criminal offence or civil delict. By agreeing to these terms and conditions, the Client removes the legal responsibility of WagTail Designs and indemnifies the same from any claims or legal actions however related to the content of the Client's site.

4.3 DOMAIN NAME

Any Domain Name obtained will belong to the Client. The Client agrees to indemnify WagTail Designs, including any incidental costs, against any claims that a Domain Name applied for, or obtained, violates the intellectual property rights of a third party. The Client warrants that the domain name sought is not a trademark of a third party.

4.4 LICENSING

Once WagTail Designs has received full payment of all outstanding invoices and the Work has been approved by the Client in accordance with Clause 4.3 hereof, the Client will be granted a licence to use the Website and its contents.

4.5 DESIGN FILES

All creation files remain the property of WagTail Designs. WagTail Designs shall be free to reproduce, use and distribute any item from your Web Page unless specifically agreed otherwise. Further, WagTail Designs shall be free to use any ideas, concepts, know-how or techniques acquired in construction of sites for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products and other items incorporating such information unless specifically agreed otherwise.

5 DESIGN CREDITS

- 5.1 The Client agrees to allow WagTail Designs to place a small credit and/or a link to WagTail Designs own website on the Client's website. This will usually be in the form of a small logo or line of text placed towards the bottom of the page.
- 5.2 The Client also agrees to allow WagTail Designs to place websites, other designs and along with a link to the Client's site on WagTail Designs own website for demonstration purposes and to use any designs in its own publicity.

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6 RIGHTS AND RESPONSIBILITIES

6.1 RIGHT TO TERMINATE

WagTail Designs reserves the right to refuse or break a contract without prior notice, if it is believed that the Client, their Website, or any material is illegal, immoral or otherwise unacceptable.

6.2 EVENTS BEYOND THE CONTROL OF WAGTAIL DESIGNS

WagTail Designs will not be liable for breach of contract where that breach was due to software, hardware or electrical failure, natural events such as fire or other events beyond the control of WagTail Designs.

6.3 SUPPLY & PRICING OF SERVICES

WagTail Designs reserves the right to use whoever it feels appropriate at the time for third party software and services, and to alter its prices as necessary without prior notice and without affecting existing contractual pricing agreements.

7 DISCLAIMER

7.1 THIRD PARTIES

WagTail Designs can take no responsibility for services provided by third parties through us or otherwise, including the Hosting of the Client's Website, although WagTail Designs will endeavour to ensure that Website downtime is kept to a minimum.

7.2 MAINTENANCE AND CORRECTION OF ERRORS

WagTail Designs takes no responsibility for the functionality or maintenance (unless a maintenance contract is in place) of the Website after the Work has been completed. Errors (both technical and typographical) attributable to WagTail Designs will be corrected free of charge, but WagTail Designs reserves the right to charge a reasonable fee for correction of errors for which WagTail Designs is not responsible, including, but not limited to malicious modification of the Website by a third party and typographical errors contained in materials provided to WagTail Designs by the Client.

7.3 EXTENT OF WORK

Installation on the Internet is limited to the uploading of all necessary files to the Host's CPanel, and testing of functionality. No registration of the Website with Search Engines will be undertaken unless otherwise agreed with the Client.

Migration of files to CMS (Content Management Systems) sites will incur an extra fee which will be determined based on the CMS upload format.

7.4 WEB HOSTING

Please note that WagTail Designs accepts no responsibility for delays or down time, breakdowns or data loss caused by Internet Service Providers (ISPs).

7.5 SEARCH ENGINE LISTINGS

WagTail Designs does not guarantee listings on Search Engines and the Client accepts that it is Search Engines and not WagTail Designs who determine whom they list and whom they will not. The Client further understands there is no guaranteed placement or rank on the Search Engines and that a new website may never even appear on Search Engines at all. WagTail Designs does not control Search Engines' algorithms and huge shifts can appear daily, weekly and even hourly.

7.6 APPROVAL OF WORK

If WagTail Design reviews a website for the Client, the Client's responsibility for proofing remains in effect. If the Client has approved a site's content, WagTail Designs is not responsible for any errors reflected on the approved site.

10 INTERPRETATION

10.1 CHANGE OF TERMS & CONDITIONS

These Terms & Conditions may change from time to time without prior notice.

11 DEFINITIONS

11.1 THE COMPANY

WagTail Designs - Product & Services Provider.

11.2 SUPPLY, SUPPLIES, ARTWORK, THE WORK

Graphic design labour, all web services, all hosting services, all print media.

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THE CONTRACT FOR ALL WEB BASED MAINTENANCE SERVICES ARE TO BE BASED ON THE CONDITIONS HEREIN OR DETAILED IN THE CONTRACTUAL QUOTATION/INVOICE(S).

1 MAINTENANCE FEES

- 1.1 This agreement allows for minor web site maintenance to pages for the lifetime of your web site at no charge, up to an average of one half hour per regular web page, including updating links and making minor changes to a sentence or paragraph. It does not include replacing nearly all the text from a page with new text, major page reconstruction, new pages, guestbooks, discussion webs, navigation structure changes, attempted updates by Client repairs or Web Design Projects delivered to Client via cd, mail and e-mail. The period begins on the date the Client's web site is available to be published to the Client's hosting service. Major page code and/or graphics changes and additions will be charged at the AUD\$50.00 per hour rate. (Notice: This rate is subject to change at any time.)

2 MONTHLY SERVICE TIME LIMITS

- 2.1 Monthly service begins on the date that work begins on your project and continues exactly 1 month from that day. Hours do not roll-over from month to month. You have 1 month to use the hours you paid for and any unused hours expire at the end of the billing cycle for that month.

3 BILLING CYCLE

- 3.1 Monthly payment is due before work begins for any given month.

4 ADDITIONAL HOURS

- 4.1 Hours exceeding the prepaid allotment will be billed according to our hourly rate (\$40). We will notify you in advance before exceeding your prepaid hours.

5 NO REFUNDS ON PRE-PAID SERVICES

- 5.1 Refunds or compensation for any expired hours will not be provided with any of our pre-paid maintenance plans. This is a necessary measure to keep the system free from abuse and to keep our package prices low.

6 TURNAROUND TIME FOR UPDATES

- 6.1 Turn-around time on basic changes or updates is 24-48 hours, though WagTail Designs shall strive to get updates done as soon as possible.

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