



DIGITAL MARKETING STANDARD TERMS AND CONDITIONS

Key Telecom
ABN 53 633 727 447

DIGITAL MARKETING STANDARD TERMS AND CONDITIONS

Key Telecom Pty Ltd Services

Key Telecom Pty Ltd agrees to provide Customer with services for development of a Web site on the World Wide Web portion of the Internet (the "Web Site") as described in Schedule A hereto (the "Services") and to provide Customer with additional services, if any, as requested by the Customer and mutually agreed upon in writing by the Parties (the "Additional Services"). The obligations of Key Telecom Pty Ltd, if any, to provide ongoing maintenance tasks for the Web Site shall be set forth and included as part of Additional Services on Schedule A. The Web Site Services and the Additional Services are referred to collectively as the "Services". Customer agrees that Key Telecom Pty Ltd is responsible only for providing the Services, and Key Telecom Pty Ltd is not responsible for providing any services or performing any tasks not specifically set forth in Schedule A or as agreed between the parties.

Web Site Development and Transfer

1 Specifications and Customer Content

Key Telecom Pty Ltd, in consultation with the Customer, shall prepare detailed written specifications for the Web Site (the "Specifications"). The Specifications shall consist of, among other things, a design for the Web Site, a flow-chart of the page/s for the Web Site, programming and interactive feature requirements, and the placement of any content or other materials which are to be incorporated into the Web Site. If the Parties are unable to agree in writing to mutually acceptable Specifications, after using good faith efforts, on or 10 days after the Commencement Date, either party may terminate this Agreement by providing written notice to the other party. Such termination shall not relieve Customer from the obligation of paying Key Telecom Pty Ltd for all fees due and owing to Key Telecom Pty Ltd as of the date of such termination.

2 Delivery of Customer Content

"Customer Content" shall mean any materials provided by Customer for incorporation in the Web Site, including, but not limited to, any images, photographs, illustrations, graphics, audio clips, video clips or text. Customer shall deliver the Customer Content to Key Telecom Pty Ltd in an electronic file format specified and accessible by Key Telecom Pty Ltd (e.g., txt, gif) or as otherwise specified in the Specifications. Any services required to convert or input Customer Content not set forth in the Specifications shall be charged as Additional Services. Customer shall promptly deliver all Customer Content to Key Telecom Pty Ltd as required by Key Telecom Pty Ltd.

3 Initial Version

Upon Specifications being mutually agreed, and upon Key Telecom Pty Ltd's receipt of the Customer Content and any fees called for in Schedule A hereto, Key Telecom Pty Ltd shall commence tasks associated with the development of the initial version of the Web Site ("Initial Version") and notify the Customer of the URL (Uniform Resource Locator) or other address of the Initial Version. Key Telecom Pty Ltd shall use combinations of technology as Key Telecom Pty Ltd, in consultation with the Customer, deems appropriate to develop the Web Site.

4 Revisions

Customer shall have 5 business days, or such time as otherwise agreed by the Parties in writing, from the date of a written notice of completion of the Initial Version from Key Telecom Pty Ltd to review and request in writing from Key Telecom Pty Ltd revisions to the Initial Version. Upon receipt of such requests, Key Telecom Pty Ltd shall use commercially reasonable efforts to implement such revision requests that are within the scope of, and consistent with, the Specifications. If Customer wishes to implement any revisions

to the Web Site that deviate in any material respect from the Specifications, Customer shall submit to Key Telecom Pty Ltd a written change order containing (i) such revisions in detail and (ii) a request for a price quote for each change (collectively, the "Change Order"). Key Telecom Pty Ltd shall promptly evaluate the Change Order and submit to the Customer for its written acceptance a proposal for undertaking the applicable tasks and a price quote reflecting all associated fees associated with Customer's Change Order. Customer shall have 5 business days from receipt of such proposal to accept or reject Key Telecom Pty Ltd's proposal in writing. If Customer accepts Key Telecom Pty Ltd's proposal to undertake the work necessitated by the Change Order, then the Change Order, as supplemented and/or modified by Key Telecom Pty Ltd's proposal, shall amend, and become a part of the Specifications and Schedule A hereto (Fee and Payment Schedule), and Key Telecom Pty Ltd shall proceed to implement such revisions in accordance with the Specifications as so modified. If (i) Customer has not made any requests for revisions by the end of 5 business days from the date of written notice of completion of the Initial Version from Key Telecom Pty Ltd, or by such time as otherwise agreed by the Parties in writing, or (ii) upon completion of implementation of such requests which were mutually agreed upon by the Parties under the revised Specifications, the Web Site shall be deemed accepted by Customer ("Acceptance").

5 Transfer

Upon Acceptance of the Web Site and payment of all fees called for in Schedule A hereto, Key Telecom Pty Ltd shall transfer the Web Site to the computer system owned and operated by Customer and/or its designated third-party contractor, through which the Web Site may be accessed via the World Wide Web portion of the Internet (the "Host Server").

6 Work Order Forms

Subsequent to the execution of this Agreement by the Parties, in the event Key Telecom Pty Ltd and Customer agree that Key Telecom Pty Ltd is to perform additional tasks not in the original scope of Services hereunder, then the Parties shall execute a work order form (each an "Order Form") upon which each such order form shall be incorporated into and shall become a part of this Agreement and shall be subject to the terms and conditions hereof.

Proprietary Rights

1 Proprietary Rights of Customer

As between Customer and Key Telecom Pty Ltd, Customer Content shall remain the sole and exclusive property of Customer, including, without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights.

2 Proprietary Rights of Key Telecom Pty Ltd

Subject to Customer's ownership interest in Customer Content, all materials, including, but not limited, to any computer software (in object code and source code form), script, programming code, data, information or HTML script developed or provided by Key Telecom Pty Ltd or its suppliers under this Agreement (with the exception of original elements of audiovisual displays created specifically for Customer, which shall be deemed to be part of Customer Content), and any trade secrets, know-how, methodologies and processes related to Key Telecom Pty Ltd's products or services, shall remain the sole and exclusive property of Key Telecom Pty Ltd or its suppliers, including, without limitation, all copyrights, trademarks, patents, database rights, trade secrets, and any other proprietary rights inherent therein and appurtenant thereto (collectively "Key Telecom Pty Ltd Materials"). To the extent, if any, that ownership of the Key Telecom Pty Ltd Materials does not automatically vest in Key Telecom Pty Ltd by virtue of this Agreement or otherwise, Customer hereby transfers and assigns to Key Telecom Pty Ltd all rights, title, and interest which Customer may have in and to the Key Telecom Pty Ltd Materials. Customer acknowledges and agrees that Key Telecom Pty Ltd is in the business of designing and hosting Web sites, and that Key Telecom Pty Ltd shall have the right to provide to third parties' services which are the same or similar to the Services, and to use or otherwise exploit any Key Telecom Pty Ltd Materials in providing such services.

3 Confidentiality

Each party agrees that during the course of this Agreement, information that is confidential or proprietary may be disclosed to the other party, including, but not limited to software, technical processes and formulas, source codes, product designs, sales, cost and other unpublished financial information, product and business plans, advertising revenues, usage rates, advertising relationships, projections, and marketing data ("Confidential Information"). Confidential Information shall not include information that the receiving party can demonstrate (a) is, as of the time of its disclosure, or thereafter becomes part of the public domain through a source other than the receiving party, (b) was known to the receiving party as of the time of its disclosure, (c) is independently developed by the receiving party, or (d) is subsequently learned from a third party not under a confidentiality obligation to the providing party. Except as provided for in this Agreement, each party shall not make any disclosure of the Confidential Information to anyone other than its employees who have a need to know in connection with this Agreement. Each party shall notify its employees of their confidentiality obligations with respect to Confidential Information and shall require its employees to comply with these obligations. The confidentiality obligations of each party and its employees shall survive the expiration or termination of this Agreement.

4 Key Telecom Pty Ltd Notices

Key Telecom Pty Ltd shall have the right to place proprietary notices of Key Telecom Pty Ltd and its suppliers (including hypertext links related thereto) on the Key Telecom Pty Ltd Materials and on the Web Site, including Key Telecom Pty Ltd attribution and hypertext links to Key Telecom Pty Ltd's web sites, and to change or update such notices from time to time upon notice to Customer. In no event may Customer remove or alter any Key Telecom Pty Ltd proprietary notice from the Key Telecom Pty Ltd Materials or the Web Site without Key Telecom Pty Ltd's prior written consent.

License

1 Grant of License - Customer

Customer hereby grants to Key Telecom Pty Ltd a non-exclusive, worldwide, royalty-free license to edit, modify, adapt, translate, Schedule, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use Customer Content as necessary to render the Services to Customer under this Agreement.

2 Grant of License - Key Telecom Pty Ltd

Key Telecom Pty Ltd hereby grants to Customer a limited, non-exclusive, non-transferable, royalty free license solely to make use of Key Telecom Pty Ltd Materials which are incorporated in the Web Site, and which are required for the operation of the Web Site solely to operate the Web Site on the Host Server. Key Telecom Pty Ltd hereby reserves for itself all rights in and to the Key Telecom Pty Ltd Materials not expressly granted to Customer in the immediately foregoing sentence. In no event shall the Customer use any trademarks or service marks of Key Telecom Pty Ltd without Key Telecom Pty Ltd's prior written consent. Unless otherwise agreed to in writing by Key Telecom Pty Ltd, the transfer or attempted transfer of the Web Site to any host server other than the Host Server shall automatically terminate the foregoing license.

Customer Content

1 Accuracy and Review of Customer Content

Customer assumes sole responsibility for: (a) acquiring any authorization(s) necessary for hypertext links to third party Web sites; and (b) the accuracy of materials provided to Key Telecom Pty Ltd, including, without limitation, Customer Content, descriptive claims, warranties, guarantees, nature of business, and address where business is conducted; and (c) ensuring that the Customer Content does not infringe or violate any right of any third party, including without limitation, intellectual property rights and without violating any law.

2 Limitations on Customer Content

Customer shall provide Customer Content that does not contain any content or materials which are obscene, threatening, malicious, which infringe on or violate any applicable law or regulation or any proprietary, contract, moral, privacy or other third party right, or which otherwise expose Key Telecom Pty Ltd to civil or criminal liability. Any such materials provided by Customer to Key Telecom Pty Ltd which do not satisfy the foregoing requirements in this Section 5.2 shall be deemed to be a material breach of this Agreement.

Fees and Taxes

1 Web Site Services Fees

In consideration for that portion of the Services to be rendered by Key Telecom Pty Ltd in connection with developing and finalizing the Specifications, Customer shall pay to Key Telecom Pty Ltd, upon execution of this Agreement, the fees identified in Schedule A.

2 Maintenance Fees

To the extent that Key Telecom Pty Ltd is to provide Maintenance hereto, Customer shall pay for all Maintenance-related tasks on a time and materials basis, as invoiced by Key Telecom Pty Ltd, unless otherwise expressly provided on Schedule A hereto.

3 Out-of-Pocket Expenses

Customer shall pay, or promptly reimburse Key Telecom Pty Ltd for, any out-of-pocket expenses, including, without limitation, travel, and travel-related expenses, incurred by Key Telecom Pty Ltd in connection with the performance of the Services.

4 Additional Services Fees

Unless otherwise agreed by the Parties in writing on Schedule A, Customer shall pay to Key Telecom Pty Ltd all fees for Additional Services on a time and materials basis as invoiced by Key Telecom Pty Ltd.

5 Late Payment

If Customer fails to pay any fees within 7 days from the due date A, applicable, then (without prejudice to the Key Telecom Pty Ltd's other rights and remedies) Key Telecom Pty Ltd reserves the right to charge interest on such sum on a day to day basis (as well after as before any judgment) from the date or last date for payment to the date of actual payment (both dates inclusive) at the rate of 2.5% above the base variable business lending rate of the Commonwealth Bank of Australia from time to time in force compounded quarterly. Such interest shall be paid on demand by Key Telecom Pty Ltd.

6 Taxes

Customer shall pay or reimburse Key Telecom Pty Ltd for all sales, use, transfer, privilege, excise, value added tax, goods and services tax, and all other taxes and all duties, whether international, national, state, or local, however designated, which are levied or imposed by reason of the performance by Key Telecom Pty Ltd under this Agreement; excluding, however, income taxes on profits which may be levied against Key Telecom Pty Ltd.

Warranties

1 Key Telecom Pty Ltd Warranties

Key Telecom Pty Ltd represents and warrants that (a) Key Telecom Pty Ltd has the power and authority to enter into and perform its obligations under this Agreement, and (b) Key Telecom Pty Ltd's Services under this Agreement shall be performed with reasonable skill and care. Key Telecom Pty Ltd further warrants to Customer that, to the best of Key Telecom Pty Ltd's knowledge, Key Telecom Pty Ltd Materials do not and will not infringe, or be misappropriations of, the property rights of third parties, provided, however, that Key Telecom Pty Ltd shall not be deemed to have breached such warranty to the extent that Customer or its agent(s) have modified the Web Site in any manner or if the Web Site incorporates unauthorized third-party materials, through framing or otherwise. If the Web Site does not conform to the Specifications, Key Telecom Pty Ltd shall be responsible to correct the Web Site without unreasonable delay, at Key Telecom Pty Ltd sole expense and without charge to Customer, to bring the Web Site into conformance with the Specifications.

Customer waives any other warranty, express or implied. Customer acknowledges that Key Telecom Pty Ltd do not warrant that the Web Site will work on all platforms. Customer acknowledges that Key Telecom Pty Ltd are not responsible for the results obtained by the Customer on the Web Site.

2 Customer Warranties

Customer represents and warrants that (a) Customer has the power and authority to enter into and perform its obligations under this Agreement, (b) Customer Content does not and shall not contain any content materials, advertising or services that are inaccurate or that infringe on or violate any applicable law, regulation or right of a third party, including, without limitation, export laws, or any proprietary, contract, moral, or privacy right or any other third party right, and that Customer owns the Customer Content or otherwise has the right to place the Customer Content on the Web Site, and (c) Customer has obtained any authorisation(s) necessary for hypertext links from the Web Site to other third-party Web sites.

3 Disclaimer of Warranty

Except for the limited warranties set forth in Key Telecom Pty Ltd Warranties, Key Telecom Pty Ltd expressly disclaims all other warranties, express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose. Key Telecom Pty Ltd shall create a Website for Client's purposes and to Client's specifications.

Indemnification 1

Customer

Customer agrees to indemnify, defend, and hold harmless Key Telecom Pty Ltd, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt or liability, including reasonable legal fees, to the extent that such action is based upon a claim that: (i) if true, would constitute a breach of any of Customer's representations, warranties, or agreements hereunder; (ii) arises out of the negligence or willful misconduct of Customer; or (iii) any of the Customer Content to be provided by Customer hereunder or other material on the Web Site infringes or violates any rights of third parties, including, without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, database rights, trade secrets

and/or licenses. This indemnity survives the termination or expiration of this agreement.

2 Notice

In claiming any indemnification hereunder, Key Telecom Pty Ltd shall promptly provide the Customer with written notice of any claim which Key Telecom Pty Ltd believes falls within the scope of the foregoing paragraph. Customer may, at its own expense, assist in the defense if it so chooses, provided that Key Telecom Pty Ltd shall control such defense and all negotiations relative to the settlement of any such claim and further provided that any settlement intended to bind Key Telecom Pty Ltd shall not be final without Key Telecom Pty Ltd's written consent, which shall not be unreasonably withheld.

Limitation of Liability

Key Telecom Pty Ltd shall indemnify the Customer and keep the Customer fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or willful misconduct of Key Telecom Pty Ltd, its employees, agents, or sub-contractors or by any defect in the design or workmanship or supply of the Web Site Services. The Customer shall indemnify Key Telecom Pty Ltd and keep Key Telecom Pty Ltd fully and effectively indemnified on demand against any loss of or damage to any property or injury to or death of any person caused by any negligent act or omission or willful misconduct of the Customer, its employees, agents, or sub-contractors. Except in respect of injury to or death of any person (for which no limit applies) the respective liability of Key Telecom Pty Ltd and the Customer under sub-clauses (1) and (2) in respect of each event or series of connected events shall not exceed the total value of fees payable pursuant to Schedule A for the services to be supplied if the contract was performed in full. Notwithstanding anything else contained in this Agreement Key Telecom Pty Ltd shall not be liable to the Customer for loss of profits or contracts or other indirect or consequential loss whether arising from negligence, breach of contract or howsoever. Key Telecom Pty Ltd shall not be liable to the Customer for any loss arising out of any failure by the Customer to keep full and up-to-date security copies of the Web Site computer programs and data it uses in accordance with best computing practice. Neither will Key Telecom Pty Ltd be liable for any delay in delivery of the Web Site to the Host Server howsoever such delay may be caused. The provisions of this clause 9 survive the termination or expiration of this agreement.

Termination

1 Term

This Agreement shall be commenced when signed by the Parties and thereafter shall remain in Effect until Key Telecom Pty Ltd delivers to the Customer an operational Web site in accordance with the Specifications. The customer acknowledges, however, that any delivery deadlines are estimates, and are not required delivery dates. In relation to these dates time shall not be of the essence and the Customer must make the required payments as per Schedule A in any event.

2 Termination

This Agreement may be terminated forthwith by either party on giving notice in writing to the other if the other party shall have a receiver, liquidator or administrator appointed or shall pass a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction), or a court of competent jurisdiction shall make an order to that effect or if the other party shall become subject to an administration order or shall enter into any voluntary arrangement with its creditors or shall cease or threaten to cease to carry on business, or in the case of an individual shall be adjudicated bankrupt. Any termination under sub-clause (1) shall discharge the parties from any liability for further performance of this Agreement and in the case of a termination by Key Telecom Pty Ltd shall entitle Key Telecom Pty Ltd to enter any of the Customer's premises and recover any equipment and materials the property of Key Telecom (and so that the Customer hereby

irrevocably licenses Key Telecom Pty Ltd, its employees and agents to enter any such premises for that purpose) and also to be paid a reasonable sum for any work carried out by it prior to such termination and in the case of a termination by the Customer shall entitle the Customer to be repaid forthwith any sums previously paid under this Agreement (whether paid by way of a deposit or otherwise) and to recover from Key Telecom Pty Ltd the amount of any direct loss or damage sustained or incurred by the Customer as a consequence of such termination. Any termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

Designated Contact

Each party shall designate one person who will act as the primary liaison for all communications regarding the Services to be rendered by Key Telecom Pty Ltd hereunder.

Waiver of Remedies

No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

Entire Agreement

This Agreement supersedes all prior agreements, arrangements and understandings between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorised representative of each of the parties.

Assignment

Save as expressly provided in this Agreement, neither party shall assign or otherwise transfer this Agreement or any of its rights and obligations hereunder whether in whole or in part without the prior written consent of the other.

Notices

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address in England as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered personally or by first class pre-paid letter or facsimile transmission and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting and if by facsimile transmission when dispatched.

Interpretation

Words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporate; and (in each case) vice versa. Any reference to a party to this Agreement includes a reference to his successors in title and permitted assigns.

The headings to the Clauses are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

Law

This Agreement shall be governed by and construed in accordance with the laws of New South Wales, Australia.

Severability

Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.

Independent Contractors

Key Telecom Pty Ltd and its personnel, in performance of this Agreement, are acting as independent contractors and not employees or agents of Customer.

Amendments

No amendment, change, waiver, or discharge hereof shall be valid unless in writing and signed by the party against which such amendment, change, waiver, or discharge is sought to be enforced.

Customer Identification

Key Telecom Pty Ltd may use the name of and identify Customer as a Key Telecom Pty Ltd Customer, in advertising, publicity, or similar materials distributed or displayed to prospective customers.

Force Majeure

Except for the payment of fees by Customer, if the performance of any part of this Agreement by either party is prevented, hindered, delayed or otherwise made impracticable by reason of any flood, fire, judicial or governmental action, labour disputes, act of God or any other causes beyond the control of either party, that party shall be excused from such to the extent that it is prevented, hindered or delayed by such causes.

Schedule A Website Design Packages

Basic

Inclusions

- Single page
- Up to 1,000 words
- Up to 10 images
- Contact form (with basic Captcha)
- One-off search engine optimisation
- Analytics tool
- On-line editing capability
- Domain name set-up

Standard

Inclusions

- Up to 4 pages
- Up to 4,000 words
- Up to 40 images
- Contact form (with basic Captcha)
- One-off search engine optimisation
- Analytics tool
- On-line editing capability
- Domain name set-up

Premium

Inclusions

- Up to 10 pages
- Up to 10,000 words
- Up to 100 images
- Contact form (with basic Captcha)
- One-off search engine optimisation
- Analytics tool
- On-line editing capability
- Domain name set-up
- Shopping cart – up to 25 products