

Terms and Conditions

INTRODUCTION

APPLICATION

These Terms and Conditions are incorporated into any Contract between Page1Media Pty Ltd (hereinafter referred to as our company's registered trademark: ® Webmatic) or their representative, and our CLIENT for the supply of services and/or goods to the Client.

DEFINITIONS

- "Webmatic" or "our" means the company that owns the Webmatic registered trademark and operates the Webmatic brand/services: Page1Media Pty Ltd.
- "Quotation" or "Quote" means the proposal document provided by Webmatic to you as the client; it defines the scope, deliverables and timeframe, and any payment terms.
- "Client" means the person or entity that ordered services provided by Webmatic.
- "Customer Service" means the relationship between Webmatic staff and the Client, with the purpose of assisting the Client with a question they have asked.
- "Registry" refers to person(s) or entity/entities responsible for providing registry services. These services include customer database administration, zone file publication, DNS and DNSSEC operation, marketing and policy determination in regards to a top-level domain name. A Registry may outsource some, all, or none of these services. Different registries exist for different TLDs.
- "Service", "Service(s)" or "Services" means any product(s) or service(s) the Customer has signed up to use. This can include, but is not limited to, the provisioning of space on one of our servers and a connection to and from the internet for web, email hosting and/or FTP services to function at the level specified in the chosen service level, domain name registration or transfer or renewal, SSL, VPS and SMS services. These product(s) and service(s) are identified in full within the quotations and emails Webmatic has sent after the Client requests the service.
- "Webmatic by Page1Media Pty Ltd", "Webmatic Domain Registration" refers to client account, billing and management portal, available online via links at <https://webmatic.com.au>

BASIS OF QUOTATION

- a) The Quotation is valid for thirty days from date of issue. If not accepted within this period it may be varied.
- b) Client's alterations/changes and/or corrections to the project after work has begun are at an additional hourly charge per hour + GST or part thereof; billed in 30-min blocks.
- c) Quotations do not include unless specified, domain name registry or renewal costs, web hosting costs and other 3rd Party costs that may be incurred by Webmatic on behalf of the Client.

1. Acceptance of Terms and Conditions

Webmatic, will carry out orders placed by the Client on the firm understanding that the Client has read, understands and agrees to be bound by these Terms and Conditions.

2. Quotations

Upon requesting a quote, the Client will be sent a written confidential quotation in electronic format. The quote will outline the costs for services requested, and will include an estimated time frame of delivery for each stage of the project.

All quotes are valid for 30 days only, and are subject to change should the scope of requested project change, or if more resources are necessary to complete the project than originally anticipated. Any changes to quotes will be in consultation with the Client.

3. Project Acceptance

The written quotation supplied by Webmatic will outline any required fees and costs that must be paid prior to work commencing on the project. Payment of the required booking or commencement fees signifies the Clients' acceptance of Webmatic Terms and Conditions. Once agreement to proceed is made by Client, a contract to complete the work exists.

Should Webmatic not receive the required fees within the above-mentioned 30-day period, the quote is considered null and void. Should the Client still wish to continue with the project, Webmatic will supply a new quote.

3.1. Deposit

On web design projects a non-refundable deposit of 50% of the quoted project costs will become immediately due to secure the booking at the quoted price.

4. Briefs and Changes to Projects

Once the project quote has been accepted, the Client is required to agree to a final, authoritative **Project Brief** outlining the total project scope. This document encapsulates and includes the Web Design Brief, Logo Design Brief, Copywriting Brief, Custom Programming Brief, and/or other briefs as required defining the project.

These documents will be used as the primary source of information during the development process, and become the base upon which the whole project rests.

Should any of the above-mentioned briefs supply information that differs to or contradicts information supplied by the Client during the initial quotation process, Webmatic reserves the right to alter the project costs and time lines appropriately in consultation with the Client. Webmatic retains the right to decline to carry out any work not detailed in the original authoritative Project Brief. Should the Client wish to alter the description or nature of the project, the Client will submit a written request to Webmatic to provide additions to the project, or modify the scope of the project.

After receipt of this request from the Client, Webmatic shall provide the Client with a written statement ("Change Order") outlining:

1. The nature of the change requested,
2. The anticipated effect of implementing the requested changes upon the related Project Brief
3. Any changes to the estimated time of delivery and price adjustments, and other such information as either Webmatic or the Client deems material.

After submission of a Change Order Brief to the Client, the Client shall accept or reject it in writing within 5 business days. If the Client fails to accept the Change Order, the original unmodified Project Brief shall remain in effect. Once the Client accepts the Change Order, the Change Order becomes part of the authoritative Project Brief.

5. Additional Content Material

It is common with web design projects that the use of additional materials may become necessary during the design process. Content Copywriting, (written wording for the project), Stock photography, illustration, video or commercially licensed content is often purchased by Webmatic on behalf of a Client. In the event that such materials are required, a price will be quoted and applied to the final design fees, and is payable in addition to design services. Fees for additional materials vary, and Webmatic reserves the right to alter fees as necessary due to market costs. Any changes to quotes and additional content material costs will be in consultation with the Client.

6. Deadlines and Delivery Dates

Webmatic shall use commercially reasonable efforts to meet all project schedules and requested delivery time frames agreed upon in the Project Brief. Such scheduled dates and delivery time frames in all cases represent estimates or targets only, and should never be accepted either explicitly or implied as a guarantee of delivery on or prior to the above-mentioned dates.

During the project the Client will be required to provide information and feedback as per the project timeline and in a reasonable time frame. It is the Client's responsibility to ensure all information is made available to Webmatic for completion of the project. The Client agrees not to hold Webmatic liable for any consequential losses associated with project delays, for any reason.

7. Design Review Process

During the design process, it is expected that the Client will work with Webmatic to reach the results outlined in the project briefs. This includes providing timely feedback on creative concepts presented, as well as a willingness to clarify and elaborate on details as required. The Client must at all times work with Webmatic to achieve the outcomes specified in the Project Brief.

8. Ownership

Ownership of the final website components supplied by Webmatic in fulfillment the Project Brief is only transferred to the Client upon final payment of all outstanding fees and costs. Any discarded concepts, ideas, designs, and/or code remain the property of Webmatic, and must not be used by the Client under any circumstances, unless purchased separately.

8.1. Intellectual Property Rights Of Ownership

- a) Once a project has been delivered by Webmatic and is fully paid for by Client, Webmatic will arrange 'go live' of the website or release data files /assign the reproduction rights of the design for the use(s) described and/or negotiated in the proposal to Client.
- b) According to the (Australian) Copyright Act of 1968, the rights to all content, design and art work, including but not limited to website design, photography and or illustration created by independent photographers or illustrators retained by Webmatic, or purchased from a stock agency on your behalf, remain with the individual designer, artist, photographer or illustrator. These rights cannot be part of another deal unless a purchase of "All Rights" (A Buyout) is made with Webmatic and/ or its authorised representative. You may not use or reproduce the design/s or the images therein for a purpose other than the scope originally stipulated in the proposal or estimate document.

- c) If you wish to deal with or use the design/s, images and or artwork materials we have created and/or the images within it for another purpose or project, including another separate website, distribution, publishing or adaptation OF ANY KIND other than that scope stipulated in the original proposal, you must contact Webmatic to arrange the transfer of rights if applicable, and payment of any additional fees associated with such a deal – before proceeding.

9. Warranty

a) Code Functionality Warranty

Webmatic agrees to provide at no cost to the Client reasonable support during a warranty period of **30 days** after delivery of any website project to cover the functionality of plugins and website forms or any special functionalities specified in the Quote.

b) Technical Support Warranty

Webmatic agrees to provide at no cost to the Client reasonable technical support during a warranty period of 7 days after delivery of any website project. Such assistance shall not exceed 2 hours. This support shall not include additions to the website, graphical, text changes or any other visual changes.

c) Technical Support assistance shall not be in the form of training the Client to use the website software CMS (content management system) unless such software training was arranged as part of the project quote for services.

Support and maintenance beyond the above provision/s will be chargeable at Webmatic's standard maintenance rates, as per section (10) below.

10. Maintenance

a) In all cases, Webmatic will provide an estimate of fees upon the maintenance being requested by the Client, and work will only commence upon the Client's expressed acceptance of the estimated fees.

b) Webmatic calculates maintenance fees based on minimum 30-minute blocks, and will invoice the Client for such fees upon completion of maintenance tasks.

c) Payment of said fees shall be made in accordance with section 11 of these Terms and Conditions.

Maintenance is only available for completed websites hosted on Webmatic servers. For modifications to a project-in-progress, please refer to section (4) "Briefs and Changes to Projects" above.

Note that Webmatic offers by arrangement and pre-payment, Website Care Packages; details are available on our website www.webmatic.com.au

11. Project Completion

A project is deemed complete when Webmatic fulfills the requirements detailed in the authoritative Project Brief. Project Acceptance is otherwise implied by:

- i. Written acceptance of the project by Client
- ii. Use and/or distribution of files or designs by Client
- iii. Failure of Client to respond to requests for information after 30 days.

12. Project Cancellation

Once a Project Brief has been agreed to by the Client (by way of confirmation of a deposit, and/or by written acceptance of the Project Brief), a binding contract to complete the project exists. Work may only be cancelled or amended with the agreement in writing of Webmatic. In any event, the cost of all work (or part thereof) performed by Webmatic for the Client, whether used by the Client or not, will be invoiced and must be paid for. All work will be billed at hourly rates + GST not to exceed original quote. "Work" is defined by, but not limited to the following:

1. Consultation with the Client or any third parties in relation to the project
2. Research
3. Planning
4. Sketching
5. Briefing
6. Setting up accounts
7. Design work
8. Programming work
9. Administrative functions
10. Copywriting
11. Providing information, referrals or otherwise supplying Client with resources at Clients request.
12. Web page design and development/ web page or computer code work

13. Breach of Contract

- a) Webmatic shall be entitled to terminate work in the event of any breach of Contract on the part of the Client or his agent of any item contained herein or otherwise forming part of this Contract.
- b) Webmatic reserves the right to terminate (cancel) a contract/project and will retain all deposits and payments made up until the time of cancellation regardless of work done, and issue a tax invoice for any work carried out over and beyond the amount already paid.
- c) Webmatic shall be entitled to terminate work in the event of Client or his agent being unable to pay his debts, or committing an act of bankruptcy, entering into liquidation or a scheme of arrangement with his creditors, being placed in Receivership or under official management or under any debenture or charge issued or granted by it, or an inspector being appointed by any other entity under the provisions of the Company Act or ordinance in the State or territory.
- c.i) Compensation for costs incurred and loss of profits up to the termination of work shall be the responsibility of the Client or his agent. In event of Webmatic instructing Attorneys to enforce any of its rights in Terms of this Contract, the Client will be liable to pay all legal fees incurred by Webmatic on the Attorney and Client scale, including collection commission and tracing charges.
- d) Webmatic reserves the right to withhold files and designs from a Client in the event of cancellation, until such time as all outstanding invoices for work performed by Webmatic has been paid for. The Client is expressly prohibited from using any files, designs, or intellectual property supplied by Webmatic for any purpose until such time as all accounts have been settled in full, or as otherwise agreed to in writing by Webmatic.
- e) Cancellation of your project with Webmatic does not dissolve Client obligations to Webmatic under these Terms and Conditions.
- f) Payment of cancellation fees is due within 7 days from the date of cancellation notification. A project is ONLY deemed cancelled if:
 1. Client requests in writing a cancellation and Webmatic Management agree in writing that a Client may cancel their project with Webmatic.
 2. Client does not respond to request for feedback, or correspondence within 30 days
 3. Client breaches the terms & conditions set forth by Webmatic, or breaches separate contractual agreements issued by Webmatic
 4. Client instructs third parties to commence or services requested from Webmatic at time of Webmatic quotation
 5. Webmatic cancels the project, and advises this in writing to the Client

14. Copyrights and Trademarks

- a) By supplying text, images and other data to Webmatic for inclusion in the Client's website or other medium, the Client declares that it holds the appropriate Copyright and/or trademark permissions. The ownership of such materials will remain with the Client, or rightful copyright or trademark owner.
- b) The Client agrees to fully indemnify and hold Webmatic free from harm in any and all claims resulting from the Client in not having obtained all the required copyright, and/or any other necessary permission.
- c) Copyright on all proprietary software and code remains the property of Webmatic or its otherwise respective owners. Webmatic provides license for the Client to use supplied software and code for its intended purpose. No license for modification or re-use of said software or code is provided unless otherwise specified by Webmatic in writing.

15. Design Credits

The Client agrees to allow Webmatic to place a small credit on the Client's website. This will usually be in the form of a small logo or line of text placed at the bottom of the website footer area and will be linked back to the Webmatic website.

16. Rights of Refusal

Webmatic reserves the right to refuse or cancel any project if it includes client requests for any text, image or other data, which is deemed under relevant Australian advertising standards authorities to be immoral, offensive, obscene or illegal. All content supplied or requested must conform to all standards laid down by Australian web/advertising governing bodies.

17. Payment Terms

Prior to commencement of any design or programming, a non-refundable commencement fee (deposit) is due as per the quotation.

For all projects exceeding \$1,000 and/or duration of 30 days, a non-refundable progress payment may be required from time-to-time during the design and/or development process, at the discretion of Webmatic.

Progress payments are generally in 20% intervals. Should the Client be issued with a progress payment invoice, the amount is payable before further work is performed on the project.

Generally, payment terms are structured as below:

1. 50% payable prior to the commencement of the design process for websites, or commencement of design for logo and stationery projects.
2. Progress payments as required during the project, typically in 20% intervals or on completion of stages
3. Remainder due upon completion of project and prior to release of files and/or "go live" of website. Client shall pay all other amounts due within 7 days net, (from the date of Webmatic issuing the Tax invoice to client via email or other delivery means).
4. Webmatic accepts cash, EFT Direct Deposit payment, or Credit Card/PayPal (Credit Card/PayPal payments may incur a surcharge as per payment gateway/merchant fees).
5. Until cleared funds have been received, publication and/or release of work performed on behalf of the Client by Webmatic may not take place. The exception to this is where a pre-arranged payment plan has been agreed to.
6. Any domain name registry fees and web hosting payments are non refundable under any circumstances.

17.1. Payment Plans by Direct Debit

1. Payment plans for website projects are available by special arrangement only
2. After the 50% deposit of the quoted project fee is pre-paid, the remainder of fees can be placed on Direct Debit.
3. A setup fee is applicable to all payment plans, invoiced at an additional \$181 + GST, per setup to cover administrative costs and bank fees. This needs to be prepaid before the payment plan can be setup.
4. In the case of payment plan, PayWay by Westpac Banking Corporation will process and deduct all payments in accordance with the terms and conditions of said financial institution. See <https://www.payway.com.au/>

18. Late payments and Default

- a) Accounts, which remain unpaid after the initial 7 days, will incur a late payment fee of \$10 (no GST).
- b) Accounts, which remain unpaid after 14 days, will incur an additional \$30 (no GST) late payment fee.

c) Account 'Default'

An account shall be considered in 'default' if it remains unpaid for 21 days from the date of invoice, unless prior arrangements have been made. Webmatic shall at its sole discretion suspend any and all services provided to the Client by Webmatic or its subsidiaries (including but not limited to hosting, websites, and email) and employ debt collection measures until the total outstanding balance has been fully paid. This includes any and all unpaid monies due for services, including, but not limited to design, hosting, domain registration, search engine submission, maintenance, sub-contractors, printers, photographers and libraries plus bank interest calculated daily for each day payment is overdue.

Suspension of such services does not relieve the Client of its obligation to pay the due amount.

Clients whose accounts are in default agree to pay Webmatic reasonable legal expenses and third party collection agency fees, interest and all costs incurred by Webmatic in pursuing the debt.

Reconnection fees on suspended websites will be charged at \$50 + GST per reconnection, per domain hosted.

19. Web Hosting

Client websites are hosted via a technology partner company, on behalf of Webmatic. This hosting partner is VentralP Australia. All standalone websites that Webmatic hosts on the Client's behalf are hosted on VentralP network. Therefore the terms and conditions of the hosting company apply: <https://ventraip.com.au/terms-policies-agreements/>

a) Customer Service:

Customer Service is accessed via sending an email or text to Webmatic. Upon receipt of this notification Webmatic staff will raise a Support Ticket with Support staff at VentralP Australia hosting servers. Updates will be provided to Client as soon and regularly as possible, within reasonable timeframes determined by Server Support Staff feedback, and within business hours of Australian time zone (AEST).

b) Customer Service Operational Hours

Customer service of VentralP Australia will be conducted on behalf of the Client if any hosting issues arise, for which there is no additional fee if Client already hosts on our server.

In cases of support being required **outside business hours** of 9am-6pm AEST, Client will incur a support 'call out' fee of \$90 + GST per hour, or part thereof for the duration of work related to the support request.

c) Backups of websites hosted on VentralP Australia Servers

Backups of client websites are conducted daily. If required a backup restoration service fee of \$60 + GST applies for any backup restoration if requested by Client.

d). Availability of Services by VentralP Australia

While Webmatic will endeavour to provide continuous availability of all Service(s) to the Customer via our technology partner VentralP Australia, neither VentralP Australia nor Webmatic will be liable for any Service interruptions or down time that is not covered by any specifically agreed Service Level Agreement (where applicable). For more details please visit <https://ventraip.com.au/terms-policies-agreements/>

Scheduled maintenance will be performed at a time which is deemed suitable by Webmatic, and should it require any Services to be offline for greater than thirty (30) minutes, Webmatic will notify Client details of the scheduled maintenance at least two (2) days prior where possible.

Unscheduled maintenance will be kept to a bare minimum and will ONLY be performed under extraordinary circumstances: e.g. security reasons or when critical server events take place. And should any Service(s) be offline for greater than thirty (30) minutes, details of the maintenance and any updates until it has been completed will be posted on the website <http://status.ventraip.com.au>

- e) Due to code warranty, any website that is designed/developed and delivered by Webmatic must be hosted on Webmatic VentralP server for a minimum of 3 months from date of website "Go live". Failure to adhere to this policy if Client wishes to host on their own server, renders null and voids any code warranty offer made by Webmatic.

After this time (90 days), Client's website may be moved off the VentralP server by the Client's new server technicians. for a fee of \$140 + GST per hour (billed per 30-min block). This fee includes provision of the website files and database in .zip format, and reasonable technical assistance in the migration to the new hosting server, provided the new hosting server meets the minimum hosting standards required by Webmatic website.

At no time during the initial 3-month hosting period may a third-party be allowed access to the raw files or databases stored on Webmatic servers, under any circumstances, without the written permission of Webmatic. Webmatic reserves the right to refuse removal, release or access to any files or material which Webmatic deems may be used by competing businesses for financial gain or which may in any way expose Webmatic's trade or operational secrets.

20. Disclaimer

Webmatic cannot guarantee that the functions contained in any web page templates or in a completed website will always be error-free and so we can't be liable to you or any third party for damages, including lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of, or inability to operate your Webmatic website and any other web pages provided by Webmatic, even if you have advised us of the possibilities of such damages.

If any provision of the project agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from said agreement and shall not affect the validity and enforceability of any remaining provisions in our Terms and Conditions.

While we take reasonable steps to investigate the materials and third party services that we recommend, we accept no responsibility for the performance or quality of materials or any consequential loss arising from their failure. The Client agrees not to hold Webmatic responsible for any such loss or damage. Any claim against Webmatic shall be limited to the relevant fee(s) paid by the Client. Webmatic reserves the right to use the services of sub-contractors, agents and suppliers and any work, content, services and usage is bound by their Terms and Conditions. Webmatic will not knowingly perform any actions to contravene these and the Client also agrees to be so bound.

21. General

These Terms and Conditions supersede any previous Terms and Conditions distributed in any form. Webmatic reserves the right to change any rates and any of the Terms and Conditions at any time and without prior notice.