



# ESPRESSO DESIGN STUDIOS

Terms of Service  
2017



# Espresso Design Studios Terms of Service

## 1. PURPOSE

These are the standard Terms and Conditions for website design, development and associated work and apply to all contracts and all work undertaken by Espresso Design Studios for its clients. By agreeing to proceed with a website design package or project you accept that this forms a contract with Espresso Design Studios (ABN: 48464591104) and the following Terms and Conditions. These terms and conditions should be read in conjunction with any quote and or tax invoice you receive from Espresso Design Studios.

## 2. FEES AND DEPOSITS

Espresso Design Studios primarily use a deposit & completed structure for payment of our services. A deposit of 50% of the total fee is payable under our proposal and is due immediately on you instructing us to proceed with the service. The remaining 50% shall become due when the service is completed subject to the terms of 'approval of work' and 'rejected work' clauses. We reserve the right not to commence any work until the deposit is paid in full. The deposit is only refundable if we have not fulfilled our obligations to deliver the work required under the agreement. The deposit is non-refundable if the development of work has been started and terminated by you through no fault of our own.

## 3. PAYMENT

We issue invoices electronically. Our payment terms are 14 days from the date of the invoice. The invoices shall list any any expenses and additional costs as separate items. The appropriate bank account details will be printed on our electronic invoice. Direct Debit is the preferred method of payment.

## 4. ADDITIONAL EXPENSES

You agree to reimburse us for any requested expenses which do not form part of our proposal including but not limited to the purchase of templates, third party software, stock photographs, fonts, domain name registration, web hosting or comparable expenses.

# Terms of Service (cont.)

## **5. APPROVAL OF WORK**

On completion of the work we will notify you and you'll will have a 5 business day opportunity to review and inform Espresso Design Studios of any points you feel haven't met the agreed specifications. If we haven't received notification in writing within 5 business days of any unsatisfactory deliverables the work will be deemed to have be approved by you and we will invoice you. Once approved, or deemed approved, work cannot be subsequently rejected. Any further revisions to scope will be quoted.

## **6. REJECTED WORK**

If you reject any of our work within 5 business days of the review period, or not approve any subsequent work performed by us to correct any points deemed as being unsatisfactory, and we consider that you have been unreasonable in any rejection based on project scope, we have the right to treat this contract as at an end and take reasonable measures to recover any payments for completed work.

## **7. SUPPLY OF MATERIALS**

You are required to supply us with any materials or information in order for us to complete the work in accordance with the timeframe within the proposal and/or quote. Examples of materials or information include, but are not limited to, written copy, logos, social media details and photographs. Any delay in providing the requested materials or information will result in a delay in project completion and may incur additional fees if the delay goes beyond a reasonable timeframe. Where you fail to provide us with requested materials, that prevents us from completing the project, we have the right to invoice you for the partially completed work by Espresso Design Studios.

## **8. VARIATIONS/REVISIONS**

Espresso Design Studios understand that minor revisions to the design may be necessary however we limit the number to 2 minor revisions. Major revisions such as a change in scope or functionality may incur additional cost and a revised project delivery date. In circumstances of a major revision we will re-scope and requote the project. If a major revision is required we have the right to invoice you for the partially completed work by Espresso Design Studios on the original scope.

# Terms of Service (cont.)

## **9. PROJECT DELAYS AND CLIENT LIABILITY**

Espresso Design Studios will estimate timeframes for project completion however unforeseen circumstances may cause delays. Any delay caused by conditions beyond reasonable control shall not be considered a breach of contract. Each party will use reasonable efforts to inform the other party, in writing, of any delay. We require your full cooperation and feedback during the development of the project and request a single point of contact be appointed who has the ability and authority to make decisions and respond in a timely manner to any queries.

## **10. DISPUTES/LIABILITY and INDEMNITY**

In the event of a dispute Espresso Design Studios reserves the right to charge you in full for the work completed as well as for the resources spent managing the dispute. Under no circumstances will Espresso Design Studios be liable for any damages arising from misrepresentation or misinformation. Espresso Design Studios reserves the right to refuse service to any client, if these are not aligned with our business operating principles and policies Espresso Design Studios provides its services as is, without any guarantees on security or other issues leading to loss of data, sale or reputation. We ensure to the best of our ability that our systems and servers are protected from hackers, viruses, intruders and other online and offline problems, however we will not be held liable for any disruption of services if such situation arises. Espresso Design Studios will not be liable for any breach of the agreement which is caused by a matter beyond its reasonable control including but not limited to Act of God, fire, lightning, explosion, war, disorder, flood, earth quake, industrial disputes (whether or not involving their employees), extremely severe weather, or acts of local or central government or other competent authorities.

## **11. INTELLECTUAL PROPERTY/ TRADEMARKS & COPYRIGHT**

Any intellectual property owned by Espresso Design Studios that is used in the development of a website, SEO, Internet marketing or any other service provided, remains the intellectual property of Espresso Design Studios and may only be reproduced or copied with the prior consent of Espresso Design Studios. You must obtain all necessary permissions and authorities in respect of the use of all copy, graphic images, registered company logos, names and trademarks, or any other material that you supply to us to include in your website or services we provide.

# Terms of Service (cont.)

## **12. SEARCH ENGINE OPTIMIZATION**

Espresso Design Studios don't guarantee any specific position in search engine results for your website. We perform various levels of Search Engine Optimization based on the package purchased and all conform to best practice.

**13. CONSEQUENTIAL LOSS** We shall not be liable for any loss or damage which you may suffer which is in any way attributable to any delay in performance or completion of our contract, however that delay arises.

## **14. DISCLAIMER**

Espresso Design Studios shall not be liable, under any circumstances, for any loss of profits, business, data, interruption of business, goodwill, or any indirect or consequential damages that result in any way from the client's use of, or inability to use the services, or that result from defects, errors, omissions, delays in operation or transmission, or any other failure of performance of the website, services, servers or software. Espresso Design Studios shall not be responsible for any damages that may be suffered resulting from delays, non-deliveries or services interruptions by any cause or errors or omissions, including interruption of scheduled payments, email interruption or through the receipt of spam emails Espresso Design Studios makes no warranties, representations or assurances that the client's equipment will be compatible with the Espresso Design Studios services.

## **15. BACKUPS/RESTORE**

Espresso Design Studios will not be liable for restoring any client data or client websites except to the extent that such data loss arises out of a negligent act or omission by us.

## **16. OWNERSHIP OF DOMAIN NAMES AND WEB HOSTING**

Unless otherwise agreed, websites will be hosted by Espresso Design Studios. Hosting are on shared and non-shared servers hosted by third party providers on behalf of Espresso Design Studios with a proven 99.9% or higher availability. Espresso Design Studios ensures to the best of our ability that our systems and servers are protected from hackers, viruses, intruders and other online and offline disruptions, however we will not be held liable for any disruption of services if such a situation arises. Espresso Design Studios reserve the right to delete without notification any files on the hosting service in case of a Malware attack.

# Terms of Service (cont.)

## **17. OWNERSHIP OF DOMAIN NAMES AND WEB HOSTING (cont.)**

Clients must not use the email hosting for any inappropriate content and undesired materials which can result in spamming or infecting the server. Under such circumstances the required files and data will be deleted without prior notice. Client's wishing to use alternative hosting are responsible for confirming that the hosting is suitable for the website build by Espresso Design Studios and are required to inform Espresso Design Studios prior to design and development. On completion of the website build, after any outstanding balances are paid, files will be prepared and delivered for installation on an alternative host. Espresso Design Studios are not responsible for any installation of the website to an alternative host.

## **18. GOVERNING LAW**

This agreement shall be governed in all respects by the laws of Queensland, Australia. Website content shall not under any circumstances include (a) Illegal material, including copyrighted works, commercial audio, video, or music files, or any material of any type in violation of any federal, state or local law or regulation anywhere in the world. (b) Adult material, including pornography, erotic images, or otherwise lewd or obscene content of any type. What constitutes "adult material" is entirely at the discretion of Espresso Design Studios.

## **19. BROWSER AND DEVICE COMPATIBILITY**

Espresso Design Studios endeavor to ensure that the websites we design and build are compatible with all current web browsers such as the most recent versions of Internet Explorer, Mozilla Firefox, Google Chrome and Apple Safari. Third party extensions, where used, may not have the same level of support however Espresso Design Studios will implement other solutions, on a best effort basis, where any incompatibilities occur. Espresso Design Studios test their designs on a variety of devices such as mobile phones, tablets and PCs. However, we cannot guarantee complete and/or long term compatibility across every device due to updates/upgrades by the vendors.

# Terms of Service (cont.)

## **20. LIMITED LIABILITY**

The services and the work product of Espresso Design Studios are sold “as is.” In all circumstances, the maximum liability of Espresso Design Studios to the client for any damages for any and all clauses whatsoever, and client’s maximum remedy, regardless of the form of action, whether in the contract, tort or otherwise, shall be limited to the net profit of Espresso Design Studios. In no event shall Espresso Design Studios 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 relation to the materials or the services provided by Espresso Design Studios, even if Espresso Design Studios has be advised of the possibility of such damages, and notwithstanding the failure of essential purpose of any limited remedy.

## **21. TERMINATION OF AGREEMENT**

If a Client terminates the agreement prior to completion of the web site, a calculation on work completed and unbilled will be made, including all work in progress, and this payment is required by the Client within 5 business days.

## **22. E-COMMERCE**

eCommerce sites are developed and handed over with a standard eCommerce configuration and layout. This includes product page, checkout page and basic shipping configuration. Any variations or customizations to these layouts will be at an additional cost to the client. For eCommerce website the “Cappucinno Business Pro” WebCare package is mandatory. This package encompasses the necessary Security, Assurance and Maintenance required for an eCommerce site with Espresso Design Studios.

## **23. TRAINING**

Training for web site maintenance is not included in the development and any ongoing prices quoted, however, should a client require training an hourly rate, (currently \$120.00 per hour excluding GST) will be charged. Based on the web site and it’s structure, training could take between one and four hours.

# Terms of Service (cont.)

## **24. MANAGED SERVICE / SUPPORT**

Any queries should be directed through to [info@espressodesign.com.au](mailto:info@espressodesign.com.au) . We also provide a comprehensive list of FAQs which should be viewed in the first instance. We will endeavor to respond to a query within one (1) business day of submission however this is on a best effort basis. For urgent support outside of business hours we will charge an hourly rate (currently \$120 per hour excluding GST). Espresso Design Studios do not provide any support for websites that they do not host on their servers.

## **25. DEFINITIONS**

Term: We; Our; EDS Definition means **Espresso Design Studios**

Term: Your; You Definition means **The customer or potential customer**

Term: Business Day Definition means **Any other day other than a Saturday, Sunday or Public Holiday at the location where the services are being delivered**

## **26. ENQUIRIES**

If you have any questions about privacy-related issues please contact us at [team@espressodesign.com.au](mailto:team@espressodesign.com.au)