

Terms & Conditions

The following Terms and Conditions apply to all Agreements entered into by and between Studio22 Pty Ltd located at 2/31 Hood Street Subiaco WA 6008 ("Studio22") and the ("Client"), effective from the issue date. They cover all products and services supplied by Studio22 and the Client accepts them by instructing Studio22 to provide any product or service.

All of the Intellectual Property contained in the products and services developed for the Client by Studio22, remains the property of Studio22. Studio22 grants a non-exclusive, non-transferable, royalty free licence to the Client to access, use, customise, communicate and reproduce Studio22's Intellectual Property to the extent necessary for the Client to obtain the intended benefit of the product and services.

POSSESSION OF PRODUCTS & DELIVERY

Once the application is deemed complete by Studio22 in accordance with this Agreement, and all payments have been received for said products, and in the case of a website, the site is ready to go live on the internet, the Client is deemed to have taken possession of the product.

Whilst every endeavour is made to adhere to the scheduled timelines, there are sometimes mitigating factors that will inhibit Studio22's ability to deliver projects on time. These may include, amongst others, the client being unavailable to provide information and/or approval, the scope of requirements expanding in a project, and unforeseen matters regarding third party suppliers. In no case shall Studio22 be liable for any delay in providing any product or service.

The Client must provide information, images and content required by Studio22 in a timely manner and in any event within the times set out in any Studio22 product or services quotation. If no time for provision is specified, the Client must provide such items within 15 business days of being requested to do so. Failure or delay by the Client in providing such items will be a breach of this Agreement.

Any instructions from any member of the Clients organisation may be relied upon by Studio22. It is the Client's obligation to ensure that only authorised members of its organisation provide instructions. Studio22 may require the Client to provide a single contact for all decisions and agrees to coordinate design decisions between the relevant parties in a prompt and professional manner so as to provide the feedback and revisions required within the required timeframes.

The Client may make one round of amendments within the original brief unless otherwise specified in the Studio22 quotation. Any further amendments or material amendments outside of the initial brief or scope will be charged at Studio22's usual rates in addition to the quoted fee.

CONFIDENTIALITY

During this Agreement, either party may have or may be provided access to the other's proprietary items or confidential information ("Confidential Information").

Each party agrees to maintain the confidentiality of the other's Confidential Information in accordance with this provision and any separate nondisclosure agreement that expressly references the disclosure(s) between Studio22 and the Client. At a minimum, each party agrees that it shall not make the other's Confidential Information available to any third party without the written consent of the other and that title and ownership of the Confidential Information provided by one party to the other shall remain the exclusive property of that party who has the right to possess the Confidential Information.

In no case shall Studio22 be liable for any gathering or use of third-party confidential information related to a Client website. The Client indemnifies Studio22 against any claim or liability in any way related to any Client website.

In the event of uncertainty by a party as to whether any information of the other party is Confidential Information, the information shall be deemed to be Confidential Information, and not within the public domain unless the other party advises in writing to the contrary.

The obligations of a party under this clause shall survive the termination or expiration of this Agreement and shall continue to the benefit of and be enforceable by the other party at any time.

LIMITATION OF LIABILITY

Studio22 will not be responsible or in any way liable for any pre-recorded, registered, patented or copyrighted sounds, music, text, images etc. that the Client provides or wishes to utilise. This is at the sole risk of the Client. The Client should seek independent legal advice if it is unsure. The Client indemnifies Studio22 against any claim or liability in any way related to claimed or actual breaches of third-party intellectual property.

Whilst all care is taken with system security, Studio22 will not accept responsibility for loss of data or security breaches. Clients must make their own data and information backups at all times. Notwithstanding the above, Studio22 will backup a Client website hosted on its servers.

Studio22 provides no guarantee of search engine registration, website functionality or statistics accuracy where the service is hosted externally.

Studio22 and its directors, employees, agents, contractors and related bodies corporate, are not liable to the Client for any losses, damages, liabilities, claims and expenses (including but not limited to legal costs and defence or settlement costs) whatsoever,

whether direct, indirect or consequential, arising out of or referable to Studio22's opinions, advice or services. Studio22's total liability to the Client is at all times limited to the amount received from such Client in the 12 months preceding any claim. In no case will Studio22 be liable for any indirect or consequential damage, loss or cost.

If Studio22 supplies a faulty product or services (or any part of it) negligently or in breach of this Agreement, then the Client must give Studio22 the opportunity to re-supply the relevant part of the services to rectify the same.

Studio22 excludes all warranties, conditions or undertakings except for those:

- that cannot be expressly excluded by reason of provisions of statute applicable to the Agreement; and
- that are expressly included and form part of the Agreement.

Studio22's liability for breach of any warranty, condition or undertaking whether expressed or implied and which cannot be excluded is limited, at the option of Studio22, to any one or more of the following:

In relation to goods the replacement of goods or the supply of equivalent goods, or the repair of goods, or the amount equal to the amount paid by the Client for the goods to Studio22.

In relation to services the re-performance of the services, or compensation of an amount equal to that paid by the Client for the services to Studio22. The attached Australian Consumer Law ("ACL") warranty applies in the circumstances set out therein, but not otherwise.

TERMINATION AND CANCELLATION

Studio22 may terminate your account at its sole discretion in the event of serious breaches such as activities of an illegal or fraudulent nature, or any activity considered not in keeping with the 'goodwill' of the service.

These include but are not limited to:

- Spamming (sending unsolicited promotional electronic mail).
- Downloading or storing of content that could be deemed 'NC' by the Australian Broadcasting Authority (ABA) or prosecutable under Australian Law. This includes things such as illegal software, software cracks and pornography, obscene material, fraudulent or deceptive statements, threatening, intimidating or harassing statements or material which violates the privacy rights or property rights of others, or is likely to be defamatory of another person or business.

Studio22 reserves the right to terminate the connection/account at any time if the service is used in a way in which Studio22 reasonably deems inappropriate.

Studio22 may also suspend or terminate provision of products or services at its sole discretion. In such case and where there is no breach of this Agreement by the Client, Studio22 will refund any fees received for products not provided or services not provided up to the date of termination.

DEFAULT

If the Client fails to pay any amount owed within seven (7) days of it becoming due and payable; or if the Client fails to observe, or perform any other provision of this Agreement required to be observed; or if a petition is filed by or against the Client under the Bankruptcy Act or any amendment thereto (including a petition for reorganization or an arrangement); or if a receiver is appointed for the Client or its property; or if the Client commits an act of bankruptcy, becomes insolvent, makes an assignment for the benefit of creditors, or offers a composition or extension of any of its indebtedness; or if the Client, without Studio22's prior consent, attempts to alter, modify, translate, decompile, disassemble, copy, sell, trade, transfer, encumber, pledge, or in any way dispose of the product or application; then Studio22 or its agents may exercise any one or more of the following remedies:

- Immediately cease to provide any further product or services.
- Declare the entire outstanding amount of this Agreement, including all fees to the end of any services fixed term, immediately due and payable without notice or demand to the Client notwithstanding that fixed period services may not have been and will not be provided to such date.
- To claim and recover from the Client an amount equal to the unpaid balance of any amounts due, or to become due, during the term of this Agreement as well as reasonable legal fees and other expenses incurred by Studio22 in an attempt to enforce the provisions of this Agreement.
- To sue for and recover costs and reasonable damages for the Client's default.
- To take possession of the website or application and restrict or remove Client access without demand or notice wherever the same may be located, with or without court order. The Client will have no claim against Studio22 for any loss, cost or damages occasioned by such retaking of possession of and the restriction or removal of Client access to such website or application.
- To charge interest from the overdue date on all outstanding amounts at 2% per calendar month calculated daily and compounded monthly.

If Studio22 takes possession or restricts website access, it shall not constitute a termination of this Agreement and shall not relieve the Client of its original obligations under this Agreement unless Studio22 expressly so notifies the Client in writing. Additionally, Studio22 shall have such other rights and remedies available at law by reason of the Client's default.

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BRANDING

Studio22 will commence branding projects according to the details specified in the brief provided to us or agreed to by the Client. If the details of the brief changes, this may naturally affect costs, resulting in the quoted fees and time frames being increased.

Studio22 will ensure that all artwork to be committed to print, digital, signage, or broadcast medium is in alignment with overall brand objectives. The Client acknowledges that specific decisions on how to conduct any media campaign will be at Studio22's discretion and that it need not notify the Client of all details of such matters.

Therefore, creative control rests with Studio22 in regard to finalised artwork. This includes press and radio advertising, TV broadcast, signage, digital media and printed media. All finalised creative concepts must be approved by the Client before production work commences. Final review and approval for all artwork/scripts, etc. is the responsibility of the Client. The Client is at all times liable for the accuracy of any information, including in the case of products and pricing. Studio22 will use best efforts to proof and check all design work however it has no liability for any error or departure from the brief for approved work. In no case does Studio22 claim that any design or brand suggestion is fit for any particular purpose.

Studio22 will use reasonable endeavours to search for possibly conflicting branding however in no case shall Studio22 be in any way liable for any claim by any third-party regarding breaches of their intellectual property rights. It is the responsibility of the Client to search for possible intellectual property conflicts with any design submitted by Studio22 for consideration. In case any such claim arises, Studio22 shall assist the Client to amend the design to overcome any such claims, where they are *prima facie* valid, at Studio22's then hourly rate.

The ownership of any design product shall vest in the Client upon payment in full of the fee.

WEBSITE

Upon presentation and inclusion of all images and text and after all functionality has been installed (in terms of the signed Agreement) the site is deemed complete, and the Client will have fourteen days to advise of any changes. Failure to notify Studio22 within the fourteen days will result in the website being considered duly completed with all outstanding monies becoming immediately due and payable.

Studio22 may charge additional fees for material changes or concept redesigns beyond the initial design concept. The Client acknowledges that variations to the initial quotation and any design brief agreed upon may not be feasible or able to be provided by Studio22. In such cases the Client is liable to pay the original quoted fee and Studio22 remains liable to provide the original product.

Studio22 may access statistical data derived, images and branding from the Client's website and use it for its own purposes, including, but not limited to effectiveness analysis and promotion.

Studio22 may promote (or not promote at its discretion) a Client's website for the purposes of Studio22's own marketing through appropriate means, including, but not limited to, the placement of the Studio22 logo and hyperlink on all pages and listing of the Client's website in a Studio22 directory.

Studio22 provides no guarantee as to the time it will take to build the Clients website unless expressly stated to the contrary on the quotation.

Studio22 will build websites according to Web Standards as outlined and recommended by the W3C (World Wide Web Consortium). The website should function across several platforms (PC, Linux and Macintosh) on the most common web standards compliant web browsers from time to time. Failure of the website to perform optimally on any platform or system other than those specified is not deemed a fault.

Studio22 provides no guarantee that websites built will be 100% compatible with all mobile devices including smart phones and tablets unless the Agreement specifically includes the development of a responsive website.

The Client acknowledges that Studio22 may utilise subcontractors for these services. In all cases Studio22 will remain liable for the provision of the services and the product.

Studio22 will use reasonable efforts to provide additional support and updates for website product however it is under no obligation to do so and will not be liable for any failure of performance or security issues once the product has met the quoted specifications.

WEB HOSTING & SECURITY

Once the Client's website goes live, Studio22 will provide hosting, CMS upgrades, technical support, and a dedicated account manager as part of the service. Studio22 will take reasonable measures to maintain website performance, apply software updates, and reduce potential security risks within its control.

Studio22 and its employees, contractors, and affiliates are not liable for any website or server hacking, malware infection, or unauthorised access that may result in the Client's website being taken offline, replaced, or removed until Google or any relevant third party certifies that the website is safe. Studio22 is also not liable for any damages,

losses, costs, or delays arising from such incidents, including loss of business, revenue, data, reputation, or any indirect or consequential damage.

In the event of a cyber incident, Studio22 will take reasonable steps to assist in restoring functionality and security; however, any additional work required to clean, rebuild, or verify the website's integrity may incur further charges unless covered under a separate maintenance or security agreement.

The Client acknowledges responsibility for safeguarding their own login details, credentials, and access to any third-party integrations connected to their website.

WEBSITE AND OTHER CONTENT CREATION

Clients may request one round of edits of content created by Studio22. Any additional edit requests will be charged at Studio22's then current hourly rate.

This clause does not apply to Studio22 content errors.

Any content created by Studio22 in relation to SEO, Social Media, SEM, or Websites must be reviewed by the client within seventy-two (72) hours of delivery. The client is required to provide feedback within this timeframe for Studio22 to implement any necessary changes. If no response is received within seventy-two (72) hours, unless otherwise agreed upon in advance, Studio22 will proceed with the content as originally delivered.

Studio22 reserves the right to modify strategies and upload content at its discretion, based on industry knowledge and expertise, to achieve the best possible results for the client. Studio22 is not bound by the originally agreed-upon content upload structure for SEO or Social Media if, in its professional judgment, adhering to it would not be beneficial to the client or the strategy in place.

CYBERSECURITY DISCLAIMER

The Client acknowledges that all online systems, including websites and hosting environments, carry inherent security risks. While Studio22 takes reasonable precautions to reduce these risks, it does not guarantee that its servers, software, or services will be free from vulnerabilities, malware, hacking, or unauthorised access.

Studio22, its employees, contractors, and affiliates accept no responsibility or liability for any loss, damage, downtime, or cost resulting from cyber incidents, security breaches, or malicious attacks, regardless of cause or origin. This includes but is not limited to:

- loss of data, content, or files
- interruption of business operations
- reputational damage or loss of revenue
- delays caused by third-party verification processes (including Google's safe-site certification)

Studio22's obligation is limited to taking reasonable action within its control to assist in restoring affected services. Any further recovery, investigation, or rebuilding work will be considered a billable service unless otherwise agreed upon in writing.

SEO, ADWORDS & SOCIAL MEDIA ADVERTISING

Search Engine Optimisation ("SEO") results (increased traffic and higher rankings) can take many months to materialise as results are subject to many variables.

Studio22 will attempt to obtain the goals of the Client. The Client acknowledges that Studio22 makes no representation that the goals will be achieved.

No postponement or holiday of SEO services will be allowed for fixed period agreements.

Studio22 will charge management fees which will be billed monthly and must be paid by the Client via direct debit.

Client advertising spend must be paid for by the Client directly to the relevant advertiser or platform. Studio22 is not liable for any claim or loss in any way related to the Client advertising order or spend.

It is the Client's responsibility to provide to Studio22 in writing any variation requested to the Clients monthly advertising spend for the following month.

Studio22 will remove all intellectual property associated with Studio22's SEO service upon cancellation of the search engine service by the Client. Studio22 will not be liable for any decrease in traffic or other changes in the Client website or online profile following SEO services termination.

Studio22 and its SEO services provide no guarantee of any nature to the client, with respect to search engine rankings, positioning, traffic and the resultant demand for, or sales of, the Client's products or services.

Any digital marketing accounts created by Studio22 remain the intellectual property of Studio22 and Studio22 reserves the right to retain control and remove Client access to these campaigns and to disempower any backlinks it may have purchased if the Client does not complete a 12-month SEO services term. This is in addition to Studio22's rights to receive the full 12 months fees for such campaign.

If the Client enters into a SEO services Agreement of less than 12 months duration, the Client must provide Studio22 with 90 days' prior notice for cancellation of the

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Agreement.

If the Client completes a 12-month Agreement and no further Agreement is entered into, the Client must give Studio22 30 days' notice before ending the agreement, in the absence of which the Agreement will continue on a monthly basis.

If the Client terminates a fixed term Agreement prior to the completion of the agreed term thereof, the Client must pay Studio22 by way of liquidated damages within 7 days the sum equivalent to 50% of the remaining monthly payments agreed to in the Agreement. The Client agrees that this sum represents a genuine pre-estimate of the loss suffered by Studio22 as a result of such termination by the Client.

PAYMENT TERMS

All invoices issued by Studio22 are payable within 7 days from the date of issue unless otherwise agreed in writing. Any amount not paid by the due date will accrue interest on the outstanding balance at a rate of ten percent per annum, calculated daily from the due date until payment is received in full. Studio22 may suspend services while any invoice remains overdue and reserves the right to recover all reasonable costs incurred in connection with the recovery of overdue amounts, including administrative and legal costs.

Tax Invoice: The quotation constitutes a tax invoice upon the Client entering this Agreement which includes instructions from the Client to provide services or products.

Deposits: Upon the Client entering this Agreement the Client is bound to pay the quoted fees and no refund will be given. With regard to scoped projects, printing and or media bookings Studio22 will require a deposit prior to work commencing. Progress payments will then be invoiced consistent with delivery of project benchmarks or at an agreed monthly rate unless otherwise negotiated. Studio22 generally requires payment in advance for each stage of its products and services.

Web Hosting Monthly Subscription: The monthly charges for these services will commence on entering into of the Agreement, unless specifically stated. In the case of a Agreement renewal the first instalment will commence 30 days after the Clients final payment on the existing Agreement. The Client may cancel any subsequent term by giving 30 days written notice prior to the commencement of that term.

The renewal will cover the same services as contained in this Agreement. The rate payable will increase by the annual CPI for each successive period. The payment method that forms a part of this Agreement will be used to process payments for any subsequent terms.

Studio22 reserves the right to suspend the hosting service due to non-payment of any amount owing on this Agreement at any time subject to 14 days written notice. The Client holds Studio22 harmless and indemnifies Studio22 from all claims, costs and damages in any way related to any suspension or failure of its hosting services.

Refund and Cancellation Policy: All payments are non-refundable unless otherwise agreed by Studio22 in writing. It is the responsibility of the Client to ensure Studio22's products and services are suitable for their purposes. Studio22's only obligation is the delivery of the products and services specified in the quotation and paid for by the Client. If the Client terminates the Agreement prior to its expiry, it will remain liable to pay the total remainder of the total fees for the entire Agreement period less any payments already made. The Client acknowledges that Studio22 encourages and provides them with a reasonable opportunity to obtain independent legal advice with respect to this Agreement.

Quotations provided by Studio22 are valid for 30 days unless withdrawn prior.

GENERAL

Studio22 may assign the Agreement at its sole discretion by notice to the Client.

This Agreement, including the Schedules, comprises the entire Agreement between the Parties and no earlier representation or Agreement, whether oral or in writing, in relation to any matter dealt with in this Agreement will have any effect from the date of this Agreement. This Agreement may only be amended in writing signed by duly authorised representatives of the parties. This Agreement may be executed in any number of counterparts; all counterparts, when taken together, constitute the Agreement.

The quotation is deemed to be part of this Agreement. If there is an inconsistency between this Agreement and the quotation, then any special condition, the other quotation details, and the general terms of this Agreement will prevail in that order to the extent of the inconsistency.

Each Party agrees that in the event any section or part thereof of this Agreement is held to be unenforceable or invalid then said section or part shall be struck and all remaining provision shall remain in full force and effect.

The failure, delay or omission by either Party to exercise any power or right conferred upon by this Agreement will not operate as a waiver of the power or right, nor will any single exercise of any such power or right preclude any other or future exercise of the power, or the exercise of any other power or right under this Agreement.

This Agreement is governed by the Laws of Western Australia.

If a dispute arises between the parties, the parties agree to negotiate in good faith to attempt to resolve the dispute for a period of 7 days before commencing legal proceedings.

Including is to be read as "including without limitation".

AUSTRALIAN CONSUMER LAW WARRANTY

1. If, under the Agreement:

- the services supplied are intended to be used, or are likely to be used, for personal, domestic or household use or consumption; or
- the amount paid or payable for the services supplied does not exceed \$40,000 or any greater amount prescribed under the Australian Consumer Law,

Then the provisions of this clause operate and bind you and Studio22, but otherwise this clause has no effect whatsoever.

2. The following provision applies:

Our services come with guarantees which cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled to:

- cancel your service contract with us; and
- a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to be compensated for any other reasonably foreseeable loss or damage.

If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

3. Studio22 will not accept any claim in respect of services unless such claim is received in writing within 48 hours of such services being supplied. If a claim is not received by Studio22 within that time, then the services will be presumed to have been acceptable and Studio22 shall be discharged from any further obligations, responsibility, liability or claims in respect of the services.

4. The benefit of the warranty provided is in addition to any other rights and remedies that you may have under a law in relation to the services to which the warranty relates and which cannot be excluded.

5. In order to make a claim under the warranty within the above period, you must at your own cost make a claim in writing to Studio22 at its Subiaco address specifying the issue complained about.

6. Upon receipt of the claim from you, Studio22 must investigate the claim, and if the claim satisfies the terms of the warranty then Studio22 will fulfil its obligations under the warranty as set out above.

7. Except as set out in this clause, Studio22 will not be responsible for any loss suffered or expenses incurred by when you make a claim under the warranty.