

# Spiral Services Agreement

Sunday, 16 April 2017



We want to work with you in an open, practical way and wish to make clear our understandings with each other.

You are covered by these terms and conditions when you chose us to provide your web design, development and hosting services.

## 1. This Contract

This contract is the basis of your relationship with us. It sets out the terms which apply whenever we provide our services for you and it continues until either one of us gives notice of cancellation to the other.

We have written this contract in plain English to make it easy to read and we have used we for Spiral Web Solutions Limited and you for you, our customer.

In this contract the words service and services cover all goods and services of any kind that we provide and anything else we do. These terms form part of every contract you have with us.

Sometimes when we provide a particular service we will ask you to enter into an additional agreement for example when we provide: hosting, development or enhanced services. We will tell you when we do this.

If you have any questions about this contract or our services please let us know. You may email us or telephone.

### IMPORTANT: GENERAL CLAUSE

This clause 1.1 takes priority over all other clauses of these terms.

#### 1.1. ACQUIRING SERVICES FOR PURPOSES OTHER THAN THE PURPOSES OF A BUSINESS

Certain laws (for example the Consumer Guarantees Act 1993 [New Zealand]), may apply to services we provide to you if, you are acquiring the services for purposes other than business purposes (for example for your household use). If those laws apply, all rights you have under them apply in addition to the rights set out in these terms and will not be reduced by them.

#### 1.2. OUR PROMISES TO YOU

We promise to:

- refer you to the right person;
- respond to your requirement with speed and efficiency;
- keep you informed of new services that become available.

#### 1.1. OUR GUARANTEES TO YOU

Whenever we provide our services to you, we guarantee to:

- provide the services with care and skill;
- make sure the services do everything we say they will do and everything you tell us you want them to do;
- begin providing the services within a reasonable time or within any agreed time limit;
- do our best to provide reliable services;
- be available to fix any fault or disruption which occurs in the services.

#### 1.2. YOUR RESPONSIBILITIES

Whenever we provide services to you, it is your responsibility to:

- follow our directions about the use of our services;
- use our services for lawful purposes and without annoying anyone else;
- make sure all information you give us is correct and complete;
- keep us protected against any legal action taken against us because of the receipt or use of our services by you or someone you are responsible for;

- make sure anyone else who uses the services, or does anything relating to them, also meets these responsibilities.

## 2. Prices & Invoicing

### 2.1. YOUR DUTIES TO US

You agree to pay for the services we provide for you no matter who requests them from your organisation unless you tell us that orders must be placed by certain named persons. You agree to pay the price for the services at the time you order them and if the services comply with your agreement with us then you will not have the right to refuse to pay for them.

### 2.2. PRICES & TAXES

Unless otherwise stated, our prices are in New Zealand dollars and exclude goods and services tax (gst). International orders will be charged at the exchange rate that applies on the day you order our services.

Under New Zealand law there is a 15% GST imposed on the price of all our services. This tax does not apply to services supplied directly overseas and will not be included with this type of order.

You agree to keep us protected against any action taken against us because we have relied on incorrect information supplied by you. For example we do not charge you gst because you tell us the services are to be supplied directly overseas and the services are redirected to New Zealand.

If your services are delivered outside New Zealand then when services arrive in your country, all duties, tariffs and taxes, and other similar charges imposed by your government are your responsibility. You agree to keep us protected against any legal action taken against us for non-payment of these charges.

### 2.3. METHOD OF PAYMENT

We require you to pay the price for services you order from us, by the 20th of the month following the date of invoice. Overdue accounts may attract penalty interest of 2% per month on the total overdue plus any collection fees.

## 3. Refusal To Supply Our Services

### 3.1. WE CAN STOP DELIVERY

If you do not pay us or meet any duties you have to us, we may refuse to deliver services you have ordered. We will always do our best to contact you before doing this.

## 4. Compensation & Liability

The Consumer Guarantees Act 1993, the Fair Trading Act 1986, and other statutes may impose warranties, conditions or obligations upon us which cannot by law (or which can only to a limited extent by law) be excluded. We exclude all such imposed warranties, conditions or obligations to the extent permitted by law and exclude any warranty, condition or obligation imposed or implied under common law, equity or otherwise.

The guarantees contained in the Consumer Guarantees Act 1993 are excluded when you engage our services for the purposes of a business in terms of sections 2 and 43 of that Act.

We will not be liable for any consequential loss or lost profit or business arising directly or indirectly from the services we provide to you.

To the extent that we are liable for any reason for any loss suffered or liability incurred by you, our liability is limited to the amount you have paid to us (excluding GST) for our services.

## 5. General

### 5.1. INFORMATION ABOUT YOU

During our relationship we will collect information about you from yourself and others.

Under the Privacy Act 1993 (New Zealand), we follow strict security procedures in storing and disclosing information about you, to prevent unauthorised access. Our security measures mean that we may request proof of identity before we disclose sensitive information to you.

You may decide whether to provide any information we seek from you. However, if you do not provide it, we may not be able to supply services to you.

You may ask to see information we hold about you and ask for any details that are wrong to be corrected.

We may hold the information and share it with our officers, employees, contractors and agents. This enables us and those other people to provide services to you, send you invoices and keep you informed of new services as they become available.

## **5.2. INTELLECTUAL PROPERTY RIGHTS**

During our relationship with you we may create designs, text, graphics etc for you. We can assign those rights to you on payment of your account.

All: software and source code created by us and incorporated in your website is our property unless we have agreed in writing otherwise. No part of this material may be reproduced without our written permission.

All: designs, text, graphics, marks, logos and the selection and arrangement of them, software, source code created by us and displayed on our website or displayed in any printed matter published by us is our property.

## **5.3. LAW & JURISDICTION APPLYING TO THESE TERMS**

These terms continue to apply no matter where you live. This will be the case until the agreement is cancelled.

To the extent legally permitted:

- these terms shall be governed by and interpreted so as to comply with, New Zealand law;
- you submit to the non-exclusive jurisdiction of the New Zealand courts or at our option the courts in the country where you are resident or carry on business;
- the Sale of Goods (United Nations Convention) Act 1994 [New Zealand] applies to anything done under these terms;
- any dispute about these terms shall be resolved according to the Arbitration Act 1996 [New Zealand];

## **5.4. SENDING INVOICES OR NOTICES**

We will send notices and invoices to the email address or last postal address you have given us.

You may send any notice to us by: emailing it to [audrey@spiral.co.nz](mailto:audrey@spiral.co.nz) .

Please tell us if you change your email address or postal address.

## **5.5. MEETING OUR DUTIES THROUGH AGENTS**

We may have any Spiral-approved agent perform any part of our side of the agreement you have with us. If that occurs, each of those people and their officers, employees, contractors or agents shall have the benefit of any terms that confer benefits on us.

## **5.6. TRANSFER**

You may transfer and have someone else perform your side of any agreement you have with us so long as you first get our written approval. We may assign and have someone else perform our side of any agreement you have with us so long as we first obtain your written approval.

## **5.7. MORE THAN ONE CUSTOMER**

All the people who acquire services from us and who you have told us are able to do so, are treated by us as people you are responsible for, under these terms and must meet all your duties under it.

## **5.8. EACH CLAUSE SEPARATELY BINDING**

Each clause of every agreement you have with us is separately binding.

## 5.9. RIGHTS & RESPONSIBILITIES THAT CONTINUE

The cancelling of any agreement you have with us does not affect any rights and responsibilities which are intended to continue or come into force afterwards.

## 5.10. EXECUTION

By signing below you signify your acceptance of these terms and your agreement to be bound by them.

**Signed** for

Spiral Web Solutions Ltd

Name & Title:

Date:

**Signed** for

Your organisation

Name & Title:

Date:

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