

## Terms and Conditions

Please read through our Terms and Conditions, we ask that you do not use our website or services until you have familiarised yourself with them. If you are using or have used our service it is understood that you have agreed to the terms set forth on this page. When we say "We", "Expectra", "Expectra Web Design", "Us" and "our service" we are referring to SF & KL Hooper and its respective products and services. References to "you" "your" "customer" "client" and the like refer to you, and your agents. These Terms and Conditions can change at any time. It is important that you check back here regularly. Your continued use of your and our website implies acceptance of any subsequent revisions.

### CUSTOMERS PROPERTY

Customers property when supplied to Expectra Web Design will be held at the risk of the Customer, although all reasonable care will be taken to prevent loss or damage. If 3rd parties are sub contracted by Expectra Web Design and are to use this artwork to complete their requested task, then all artwork remains the property of the Expectra Web Design customer and may not be copied or used in any manner by the 3rd party for their own works outside of Expectra Web Design. Once the job has been completed all copies of the artwork either hard or soft are to be returned to Expectra Web Design or be completely deleted from their systems or servers.

### WEBSITE CONTENT AND DATA ENTRY

Content refers to any displayed text or images used within a website. It may also refer to other embedded media such as movies, sound files, animation sequences or other files that could normally be regarded as website content. The supply of content and assets is the responsibility of the client, unless the client is employing Expectra Web Design's copywriting service. Content must be thoroughly reviewed before it is supplied to Expectra Web Design. Expectra Web Design is not responsible for any spelling and grammatical errors. Expectra Web Design is not responsible for proofreading any content unless specifically agreed. All content for all sections of the website must be supplied at an agreed time and preferably in one delivery. Content must follow the directions of the sitemap. If the sitemap indicates five pages, content must be supplied for five pages.

Expectra Web Design makes no representations to you concerning the content or functionality of your web site. This is your responsibility to ensure that it meets your requirements.

If you provide Expectra Web Design with goods, materials, photographs, film, data or information to be used in any form, you hereby warrant that these do not infringe the rights of third parties and indemnify Expectra Web Design against any action taken against Expectra Web Design by any such third party.

Without limiting the generality of the foregoing, you agree not to infringe the copyright trademark, privacy or personal or proprietary rights of third parties, supply libellous, abusive, obscene material or disparage the products or services of any third party.

Expectra Web Design for its part hereby undertakes not to knowingly infringe the rights of third parties in activities conducted on your behalf. You are solely responsible for dealing with persons who access your data or web site and warrant that you will not refer complaints or inquiries in relation to such data to us.

### THE IMAGES ON YOUR WEBSITE

If we use stock imagery on your website you do not own these images, ownership is retained by the image rights owner. Such images can therefore not be used or re-used for any other purpose and can only be used as they were placed onto your website by us. Any editing of the dimensions in which they appear may contravene their usage rights. Do not copy the images and use them in other promotional materials. If you are looking to own the images on your website or use them for another purpose then please contact us and we will endeavour to put you in contact with the image rights owner. This of course, does not apply to images that you own and provide to us for use on your website.

### COPYRIGHT

The customer shall not submit for use by Expectra Web Design anything whose use would constitute an unauthorised dealing with copyright material. In the event of any breach of this condition resulting in such an unauthorised dealing, the customer shall remain liable to pay all sums due to Expectra Web Design under the relevant contract and shall further indemnify Expectra Web Design against any loss, costs or expenses attributable to such unauthorised dealing.

### TITLE

Ownership of any work delivered to the customer under any contract between Expectra Web Design and the customer, or of any goods delivered under any such contract, shall not pass to the Customer until payment in full of all sums due to Expectra Web Design under such contract has been made to Expectra Web Design. The risk of damage to or destruction of any item delivered by Expectra Web Design to the customer shall pass to the customer upon delivery, notwithstanding that ownership of the item has not then passed, and the customer shall ensure that such item is adequately insured and/or protected from time of delivery.

### PROOFS

Final proofs will be presented by Expectra Web Design to the Customer for approval prior to publishing. When approval is given by the customer in the form of a signature upon our approval stamp, the customer is assumed by Expectra Web Design to have studied all aspects of the material presented and to be satisfied with them, noting any exceptions in writing.

### SUB CONTRACTING

Expectra Web Design may employ any person, company or firm as a sub-contractor for the production or provision of any printed or other item in accordance with any original design or other work produced by Expectra Web Design for the customer.

## SYSTEM SPECIFICATIONS AND ALTERATIONS

Each project will have set parameters as described in the final proposal and/or technical specification. This document also includes an authorisation form which indicates agreement with the specification and authorises Expectra Web Design to begin work. On commencement the development team will proceed in accordance with the exact specifications as set out in this document. If there are any amendments to these parameters after the project has commenced, Expectra Web Design will consider this to be an additional component or customisation of the project and will charge for this work at our standard hourly rate of \$90+GST.

## UPDATES OUTSIDE OF ORIGINAL SCOPE

In the event of any variations or extensions to the project, or should a client wish to engage Expectra Web Design on a time and materials basis, all work will be undertaken in accordance with our hourly rate of \$90+GST.

## BUGS OR SYSTEM ERRORS

When a project has been delivered and approved, the client will have a three month grace period where Expectra Web Design will address any reported system errors or bugs free of charge. After this grace period any required maintenance will be billed at our standard hourly rate of \$90+GST.

## PROJECT DELAYS

Where a project has final approval Expectra Web Design will indicate timeframes for both parties. If a client delays the project for more than two months, (by missing deadlines for the supply of information, content or images) Expectra Web Design reserves the right to charge a project-delay fee to recover costs associated with ongoing management of the project.

**PAYMENT** -- Payment for websites is as follows:

### Stage One:

- Prior to commencing work we must receive a 33% deposit for your website.

### Stage Two:

- Upon delivery of your website design we will take a further 33% payment via your nominated payment method.

### Stage Three:

- Within 5-10 business days of receiving design approval for your website proposal we will supply you with your website on a temporary domain name (provided we have received payment for Stage Two). We will have entered the content that you supplied to us. If we have not received content for your website at the time of design approval, we will load dummy content onto your website. Five business days after we have sent you your website on its temporary domain we will charge you the Stage Three website payment of 34%, this is the final website payment for your package. If you haven't supplied your website content to us by the time of design approval, we will enter your content when it is supplied to us at a later date. If you ask to activate (have your website on its domain name) during this 5 day period we will charge you the final 34% of your package price at that time. All accounts are payable before delivery of final artwork or uploading of final files to live sites.

**Under no circumstances shall the final payment be delayed or withheld due to non-supply of content.**

The payment may be only be delayed, if upon supplying you with your website on its temporary domain, there are material defects in what we supplied to you from what we have promised to you in our initial proposal, wireframes and/or design concepts. Once these material defects have been rectified, we will automatically process your Stage Three payment. Any material defect must be communicated to us, in writing, in the 5 business days between us delivering you your website and us taking the Stage Three payment.

## TERMS

All payments must be made before the invoice due date, unless agreed otherwise. Prices quoted by Expectra Web Design are inclusive of GST which will, where appropriate, be payable by the customer. Where hosting invoices are overdue by 30 days Expectra Web Design reserves the right to lock all email facilities; at 60 days the web site may be closed; at 90 days legal proceedings will commence.

## NON-PAYMENT

Failure by the customer to meet financial obligations may result in legal proceedings by Expectra Web Design under which circumstances ALL legal costs and other administrative expenses will be recoverable in full by Expectra Web Design.

**REFUNDS POLICY** -- Refund Policy on Website Packages with a staged payment structure:

### Prior To Work Commencing:

You will be eligible for a complete refund of your 33% deposit, or whatever deposit amount that was paid, if no work has commenced on your project from when we receive payment of your deposit, to when we receive notice in writing that you are cancelling your project and request a refund.

### Once Work Has Commenced:

Once we have commenced work on your project no refund is available on the 33% deposit, or whatever deposit amount that was paid, for your project. Work may include, but is not limited to; contact between yourself and an Account Manager and/or website designer from Expectra Web Design, the commencement of wireframes by Expectra Web Design for your project, the commencement of design concepts by Expectra Web Design for your project, the commencement of database design or programming work and other work undertaken by Expectra Web Design in relation to your project.

### Once Design Has Been Delivered:

As per the payment structure agreed when commencing your project we take a Stage Two 33% payment of your website package upon delivery of a website design. Once this has been delivered and payment taken, no refund is available for the payments made to date. If you choose to discontinue your website build, you must notify us in writing at this stage. Should you cancel your website build at this stage you will have ownership of the wireframe concept we have supplied to you, as well as the website design concept(s) (excluding stock images and other materials not owned by either party) that we have supplied.

## REFUNDS POLICY (cont.)

### Following Site Delivery:

Following design approval we will supply you with your website on a temporary domain name, (provided we have received payment for Stage Two). At this stage, your website will contain the content you have supplied to us up to the point of design approval. Should we not have received content from you, dummy content will be entered onto your website. A Stage Three, and final website charge of 34% is taken 5 business days after we have sent the details of the temporary domain name. If you elect to withdraw from your website project at this point, no refund will be made available to you. The Stage 3 payment can only be delayed if there are material defects in the site we provide to you, to what we have promised during the proposal, wireframe and/or website design stages. Should such a defect occur, we have the right to take the Stage Three payments once the defect has been rectified.

## WEBSITE DESIGN

While every endeavour will be made to ensure the website and any scripts or programs are free of errors, Expectra Web Design does not accept responsibility for any losses incurred due to website malfunction.

The project and any associated graphics and files remain the property of Expectra Web Design until all accounts are paid in full.

Any scripts, cgi applications, php scripts, programming code or software written by Expectra Web Design remain the property of Expectra Web Design and may only be commercially reproduced or resold with the permission of Expectra Web Design.

Expectra Web Design cannot take responsibility for any copyright or privacy infringements caused by materials submitted by the client and may refuse use of any such material unless proof of permission is provided.

Any additions to the brief will be carried out at the discretion of Expectra Web Design. Where no charge is made by Expectra Web Design for these additions, Expectra Web Design accepts no responsibility to ensure these additions are error free. Expectra Web Design reserves the right to charge an appropriate sum for any correction to these or further additions.

The client agrees to provide Expectra Web Design all materials required to complete the site (files, content and images) in a timely fashion.

Expectra Web Design will not be liable for costs incurred, compensation or loss of earnings due to the failure by the client or Expectra Web Design to meet agreed deadlines. Expectra Web Design will not be liable or become involved in any disputes between the site owner and their clients and Expectra Web Design cannot be held responsible for any wrongdoing on the part of a site owner. Expectra Web Design will not be liable for any costs incurred, compensation or loss of earnings due to the work carried out on behalf of the client, or any of the clients appointed agents. Expectra Web Design will not be liable for any costs incurred, compensation for loss of earnings due to the unavailability of the site, servers, software or any material provided by its agents. A deposit of 33% is required with each project before any work will commence. Once a project has been completed the final balance of payment is due in accordance with our payment terms.

## DATABASE, APPLICATION AND E-COMMERCE DEVELOPMENT

Expectra Web Design cannot take responsibility for any losses incurred by the use of any software created for the client. The client is expected to fully test any application or program relating to a site developed by Expectra Web Design before being made available for general use. Whilst every care has been taken to ensure products are bug free and accurate, the ultimate responsibility lies with the client in ensuring that all software is functioning correctly before use.

Any scripts, cgi applications, php scripts or software written by Expectra Web Design remain the property of Expectra Web Design and may only be commercially reproduced or resold with the permission of Expectra Web Design.

Where applications or sites are developed on servers not recommended by Expectra Web Design, the client is expected to provide information, software and support relating to the server to assist with the correct development of the application. Any assistance or work required from Expectra Web Design for external hosting will incur additional charges.

Where a large application is to be developed, the client is responsible for providing a testing environment as similar as possible to the final production environment.

When a project has been delivered and approved, the client will have a three month grace period where Expectra Web Design will address any reported system errors or bugs free of charge. After this grace period any required maintenance will be billed at our standard hourly rates.

### Compatibility

Expectra Web Design will ensure that any site or application will function correctly:

- On the server to which it is initially installed
- When viewed with current Microsoft Internet Explorer version 8 to current full release
- When viewed with Mozilla version 3.5 to current full release
- When viewed with Safari version 4.0 to current full release

Expectra Web Design can offer no guarantee of correct function with all browser software including future releases.

## SEARCH ENGINES

A specific position in the search engine results is not guaranteed. We will make every attempt to obtain a Top Ranking for your keyword phrases, but are not liable for circumstances beyond our control. Such as change in policies of the search engines involved, spontaneous drops or other anomalies out of our control.

We will not index sites that promote hate or discrimination based on race, religion, sex, age, sexual orientation or any other type of grouping.

We reserve the right to refuse to promote any site we deem as unacceptable for any reason, without explanation.

No retroactive refunds will be made, this service is a monthly, quarterly, or yearly service. For purposes of this agreement, Expectra Web Design shall have no responsibility under this agreement during periods when the search engine is not available either for searching or submissions. Expectra Web Design will not be responsible for any further damages of any kind.

The code that we actually use to index your page with the search engines is proprietary even though it is based on your original pages. The information (all codes, HTML, Java, all work that has been manually done) may not be sold, used, or transferred to another website without our written permission.

We will not 'spamdex' your pages into unrelated keyword categories. That means that if your page is the "cheap car insurance" page, we will not index it into the "ford trucks" keyword search page. This kind of indexing is harmful to useful operation of all search engines.

## **WEB HOSTING**

Hosting is available through Expectra Web Design hosting. Any client requesting hosting on another server will be charged a fee for the time taken to transition the website to the preferred hosting provider. If you choose to organise your web hosting arrangements yourself, final exported sites will be uploaded to your preferred host company or supplied on disk to you at a cost of \$90+GST per hour. Construction files of the site can be supplied on request, charges may vary.

Expectra Web Design reserves the right to refuse handling of material which may be deemed offensive, illegal or controversial. In this instance, hosting services may be terminated.

Please note that Expectra Web Design accepts no responsibility for delays or down time, breakdowns or data loss caused by Internet Service Providers (ISPs).

### **Commencement**

We will commence charging your hosting fee upon website launch (on your domain name), or 28 business days from when your website is delivered to you for the first time on a temporary domain. Although your website may not be live at this time, your account still costs us for things such as support, domain name, email hosting, bandwidth, server disk space and system upgrades.

### **Monthly Fee Billing Procedure**

You will be billed as per your billing cycle; on behalf of our billing company **Ezidebit** we will send you out the appropriate paperwork for your fees. You will be billed retrospectively for any additional services that you use during a given month. Your first month will be billed on a pro-rata basis dependent on the number of days left in the month.

### **12-Month Obligation**

If you purchase an annual hosting subscription, your website must remain active and you a full-paying customer of Expectra Web Design for 12 months.

### **Over usage**

The Services provided to you under this agreement are provided in accordance with the data transfer bandwidth limits and/or disk space limits, as published on the Expectra Web Site or as stated in writing by Expectra Web Design. Expectra Web Design may monitor your usage of the Services to ensure that you are complying with the agreed limits. If data transfer bandwidth usage and/or disk space usage exceeds the agreed limits, you agree that Expectra Web Design may require you to purchase any additional data transfer bandwidth and/or disk space and your failure to do so may result in the Services ceasing to operate or function.

### **Refund Policy**

You are billed for the period in advance. If you cancel your service, you will not be billed again. However, you will not be eligible for a refund or partial refund for the previous payment, regardless of how much of the current period you have used.

## **USE OF OUR EMAIL FACILITY**

If you choose to use our email facility you must abide by the relevant electronic messaging laws of all relevant jurisdictions. Do not use the email facility for the purpose of spam. Only send emails to addresses that have requested to receive information from you. We will not be responsible for the emails and any electronic correspondence sent from our system by you. We will fully co-operate with relevant legal authorities requiring information about the efforts of spammers.

## **FTP ACCESS**

Expectra Web Design does not automatically grant FTP access unless requested. If given access you will be given a unique login for you and you only. If a third party requires ftp access then you agree to advise Expectra of the nature of such access and by whom access is to be made. All FTP access is logged and if we are aware that access has been granted to a third party without Expectra's knowledge we will investigate and take action which may include, but is not limited to, partial or whole suspension of your account.

## **DATA BACKUP**

It is wholly the customer's responsibility to ensure that regular backups are made of your website or any associated database. Expectra assume no responsibility for the loss of website files or database records in the event of failure in any way by the hosting server or by any actions by Expectra, inadvertent or otherwise, in the course of maintaining your website or as a result of customer actions, inadvertent or otherwise. Expectra agree to make access available to live website and database files upon request for the purposes of backing up. Any pages or content or data that is required to be backed up or restored by Expectra may be charged at our standard hourly rate of \$90+GST.

## **ACCESSIBILITY**

We make efforts to ensure that your website and all of our services are online 24x7 every day of the year. However, this will not always be the case. There may be times when your website will be down, sometimes for things that we can't control and others that we can. When your service is offline we will do our best to get it online as soon as possible. We will not be held responsible for damage, events or losses directly or indirectly related to your website being offline.

## **ONLINE**

Expectra Web Design cannot guarantee the availability or continuity of this service and cannot accept liability for loss of revenue caused by the unavailability, malfunction or interruption of this service. We endeavour to provide at least 99% uptime on all of our hosting. If in a given month, we do not reach this target, we will not offer compensation. We offer hosting and do our best to keep our sites online but cannot be held responsible when websites are offline.

## **MAINTENANCE**

Expectra Web Design can provide a content maintenance service if required. This is billed at our standard hourly rate of \$90+GST or an agreed monthly/annual content maintenance contract.

Expectra Web Design guarantees that each project will be compatible with current versions of all major software platforms and browsers. Current release refers to software versions current at the time the website goes live, versions released after this date are not included.

## **SUPPORT**

Technical assistance via telephone or email will be offered. Extensive queries taking more than 15 minutes to deal with or site maintenance will be charged at a rate of \$90+GST per hour in 15-minute increments, unless you have a current maintenance contract in place.

Expectra Web Design provides a telephone helpdesk during business hours 9am - 5.30pm (EST) and an email support service on [support@expectrawebdesign.com.au](mailto:support@expectrawebdesign.com.au)

### **Included in your initial website purchase:**

- Help using your website (understanding what you can do and where you do it)
- Billing enquiries
- Bug reports and fixes of your website

### **The following attracts our support fee of \$90+GST in 15-minute increments**

- Support from staff other than our helpdesk staff (e.g. General Manager or Designer)
- Face to face support
- Content changes (unless you have a current maintenance contract in place)

### **The following attracts our support fee of \$90+GST in 15-minute increments (cont.)**

- Design changes
- HTML/CSS/Coding training, support or troubleshooting
- All application training and support (i.e. Photoshop, flash etc)
- All customer computer hardware issues that we can help with, this is outside of our expertise so is not a guaranteed service
- Time spent investigating a reported issue for which Expectra Web Design is not responsible

### **Service Level Agreement**

- All support issues requiring less than 2 hours work will be fixed within 24 hours of the support ticket being logged. If faster support is required then this will attract a surcharge of \$90+GST
- Support issues requiring more than 2 hours work will be given a fixed timeframe and will attract a surcharge of \$90+GST if needed much faster than suggested

## **OUR INTELLECTUAL PROPERTY**

The system that runs your website remains the property of Expectra Web Design at all times. The coding, programming and intellectual property that creates your website is owned by Expectra Web Design. In purchasing a website with us you own the style, design and graphic design of the website. You also own all of the content that you place onto your website. The content, style and design on your website will be made available to you if you elect to leave Expectra Web Design.

Copyright is taken very seriously and we reserve the right to pursue and investigate all breaches of copyright infringement.

All creation files remain the property of Expectra Web Design.

Expectra Web Design retains the copyright in and the right to use all artwork created in advancing the profile of Expectra Web Design and to be recognised for artwork created by Expectra Web Design.

Expectra Web Design shall be free to reproduce, use, disclose, display, exhibit, transmit, perform, create derivative works, and distribute any item from your web site unless specifically agreed otherwise. Further, Expectra Web Design shall be free to use any ideas, concepts, know-how, or techniques acquired in construction of sites for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products and other items incorporating such information unless specifically agreed otherwise.

## **LINKS**

As part of your website build and ongoing hosting Expectra Web Design has the right to include back-links from your website to Expectra Web Design. This is an important marketing avenue for us and allows us to keep our prices so low. If you do not want the back-link on your website we may be able to negotiate a fee for the removal of the links.

## **PROMOTIONAL MATERIAL**

Expectra Web Design reserves the right to use client websites, web designs, layouts, wireframes and collateral in advertising and / or marketing initiatives. This may include portfolio examples on our website, case studies and other promotional initiatives.

## **YOUR PRIVACY**

Your privacy is important to us. We dislike SPAM as well. We will never sell, lease or distribute your contact details to any 3rd party. We will only reveal data pertaining to your account if compelled to do so by law.

## **FAIR USE POLICY**

We employ a fair use policy to our websites. If we believe, for any reason, that you are not behaving in a manner expected of a Expectra Web Design customer then we reserve the right to terminate your account - effective immediately.

## **LIABILITY**

We will not be held liable for any action or inaction relating to our service. We offer a quality service at highly competitive rates. We believe that our system is highly secure from the actions of hackers, viruses and other problems on the Internet but can make no guarantees. It is up to you to back-up and ensure the integrity of your data offline. If your website is offline then please contact us and we will try to fix the problem as soon as possible. We will not be liable for loss of sales, leads or reputation from using our service.

You acknowledge that web sites cannot be guaranteed to be 100% error free in construction and acknowledge that the existence of errors falling short of a complete failure of consideration in the site shall not constitute a reason to terminate this agreement.

**DISPUTE RESOLUTION**

The parties will, in good faith, attempt to resolve any dispute, claim or controversy arising out of or relating to this Agreement by negotiation. Either party may initiate negotiations by providing written notice in letter-form to the other party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond in writing within five days with a statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet at a mutually agreeable time and place within ten days of the date of the initial notice in order to exchange relevant information and perspectives, and attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the matter shall be submitted to mediation in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Mediation and Conciliation Rules. If the dispute or difference is not settled within 30 days of the submission to mediation and provided such period is not extended by consent of the parties, it shall be and is hereby submitted to arbitration in accordance with, and subject to, The Institute of Arbitrators & Mediators Australia Rules for the Conduct of Commercial Arbitrations. Notwithstanding the existence of a dispute or difference each party shall continue to perform the Agreement. This clause shall survive termination of this Agreement.

**JURISDICTION**

This website is governed by the laws of the state of Victoria, Australia. Any dispute arising from the use of this website will be settled in this jurisdiction.