

TERMS OF SERVICE

Summary:

We'll always do our best to fulfil your needs and meet your expectations, but it's important to have things written down so that we both know what's what, who should do what and when, and what will happen if something goes wrong. What we do want is what's best for both parties, now and in the future.

WHAT DO BOTH PARTIES AGREE TO DO?

You: You have the authority to enter into this contract on behalf of yourself, your company or your organisation. You'll give us everything we need to complete the project as and when and in the format we need it. You'll review our work, provide feedback and approval in a timely manner too. Deadlines work two ways, so you'll also be bound by dates we set together. You also agree to stick to the payment schedule set out at the end of this contract.

Us: We have the experience and ability to do everything we've agreed with you and we'll do it all in a professional and timely manner. We'll endeavour to meet every deadline that's set and on top of that we'll maintain the confidentiality of everything you give us.

DESIGN

Your website will be based on a website template. These templates are the basis, or the structure of the website. Templates are a framework and the website design is complete when the 'filler' copy, images, and logo have been replaced with your copy, images, and logo.

Our job is to personalise it to you and your business. The website template will be adjusted to present your images, text, information, branding, logo, and persona. Please note that our work does not include 'custom' changes to the website template. Your website will look and feel the same as the template, however we personalise the aesthetics of the website template to your business.

You'll have many opportunities to review our work and provide feedback.

Updates

After your website template has been rebranded and it has been mutually agreed that the design phase is completed, then you may request updates to the website. Much like the initial design, example of updates include; Updating website copy (add/remove/change), Update new logo, Add/Remove new photos or images, changes to online forms, Adding/removing/updating products, and adding promotional banners.

Examples of requests for updates that are not accepted include; Structural changes to website, a new website, custom functionality or custom changes. You may request additional functionality, such as a request to add a shopping cart when there previously was no cart, in which cases we reserve the right to provide an estimate for completion of the request.

Text content

We're not responsible for writing or inputting any text copy. If you'd like us to write new content or input text for you, we can provide a separate estimate for that.

PHOTOGRAPHS AND GRAPHICS

You should supply graphic files in an editable, vector or png digital format. You should supply photographs graphics in a high resolution digital format. If you choose to buy stock photographs, we can suggest stock libraries. If you'd like us to search for photographs for you, we can provide a separate estimate for that.

We may be able to find suitable, free-to-use for commercial purposes, with no attribution required, stock images for use on your website. If you approve KD&M to use free stock images then you accept responsibility for any copyright or license conditions on these images.

BROWSER TESTING

Browser testing no longer means attempting to make a website look the same in browsers of different capabilities or on devices with different size screens. It does mean ensuring that a person's experience of a design should be appropriate to the capabilities of a browser or device.

LEGAL STUFF

We can't guarantee that our work will 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, even if you've advised us of them. If any provision of this contract shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this contract and shall not affect the validity and enforceability of any remaining provisions.

Warranties and Liability

The Client agrees that any material submitted for publication will not contain anything leading to an abusive or unethical use of the Web Hosting Service, the Host Server or KD&M Pty Ltd. Abusive and unethical materials and uses include, but are not limited to: pornography, obscenity, nudity, violations of privacy, computer viruses, harassment, illegal activity, spamming, advocacy of illegal activity, and any infringement of privacy.

The Client hereby agrees to indemnify and hold harmless KD&M from any claim resulting from the Client's publication of material or use of those materials.

It is also understood that KD&M will not publish information over the Internet which may be used by another party to harm another. KD&M will also not develop a pornography or warez project for the Client. KD&M reserves the right to determine what is and is not pornography.

KD&M does not warrant the functions of the site will meet Client's expectations of site traffic or resulting business or that the operation of the web pages will be uninterrupted and / or error-free. KD&M will not be held responsible for occasional downtime of email or project due to line interruptions and/or other instances beyond the KD&M Pty Ltd.

Indemnification

The Client agrees that it shall defend, indemnify, save and hold the KD&M harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees associated with KD&M development of the Client's project. This includes liabilities asserted against KD&M, its subcontractors, its agents, its clients, servants, officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by the Client, its agents, employee or assigns.

The Client also agrees to defend, indemnify and hold harmless KD&M against liabilities arising out of any injury to person or property caused by any products or services sold or otherwise distributed over the Client's project. This includes infringing on the proprietary rights of a third party, copyright infringement, and delivering any defective product or misinformation which is detrimental to another person, organization, or business.

COPYRIGHTS

First, you guarantee that all elements of text, images or other artwork you provide are either owned by your good selves, or that you've permission to use them.

Website ownership is from 12 months, subject to all fixed monthly instalments being paid over the first 12 month period. A backup copy of website available only after 12 months paid service.

We'll own the unique combination of the elements that constitutes a complete design and we'll license that you, exclusively and in perpetuity for this project only, unless we agree otherwise. If you decide to cancel your subscription within the first 12 months and would like a backup of the website files and database, you will be required to pay the difference of the remainder of the first 12 months.

We love to show off our work and share what we've learned with other people, so we reserve the right, with your permission, to display and link to your project as part of our portfolio and to write about it on websites, in magazine articles and in books.

BACKUPS

KD&M maintains internal backups of active project code and design files. This backup system is not intended as a solution for The Client, rather as a code archive through the duration of this Contract. While KD&M backup system is fully redundant, it is not guaranteed. Backups are made daily and are archived for 1 month before being destroyed.

SECURITY

Although KD&M makes every effort to provide secure Finished Product(s), due to the nature of rapidly advancing technology, KD&M can in no way guarantee that the Finished Product(s) will not be subject security breaches.

DELAYS

KD&M Delays: Designer shall use all reasonable efforts to meet the Work Plan and Milestones delivery schedule. Designer may extend the due date for any Deliverable by giving written notice to Client.

Client Delays: Client shall use all reasonable efforts to provide needed information, materials and approvals. Any delay by Client will result in a day-for-day extension of the due date for all Deliverables.

General Delays: Any delay caused by conditions beyond the reasonable control of the parties shall not be considered a breach and will result in a day-for-day extension any performance

due. Each party shall use reasonable efforts to notify the other party, in writing, of a delay. Conditions beyond the reasonable control of the parties include, but are not limited to, natural disasters, acts of government after the date of agreement, power failure, fire, flood, or Force majeure.

PAYMENTS

We're sure you understand how important it is as a small business that you pay the invoices that we send you promptly. As we're also sure you'll want to stay friends, you agree to stick tight to the following payment schedule.

Payment schedule:

Website and email package \$89.00 per month + once off \$799.00 setup fee.
SEO Package - \$699 per month

Additional Expenses

The Client agrees to reimburse KD&M for any critical Client requested expenses necessary for the completion of the project. Examples would be:

Purchase of specific fonts at the Client's request,
Purchase of specific photography at the Client's request.
Purchase of specific software at the Client's request.

Payment:

The Client shall send payment to KD&M within 7 days of receiving an invoice.

Late Payment: If a payment is more than 7 days late, no Services will be performed for the Client until payment is received.

Over Charge Fees, Charge Back Fees, Dishonour Fees: We will on charge any bank fees that are a result of penalties caused by (but not limited to) Over Charges, Charge Backs, Dishonours.

Termination: Either party must give at least 14 days notice to the other party before termination. This contract may only be terminated after all outstanding invoices have been paid in full.

Rush Processing

The agreed-upon completion date for this project is: three weeks (15 working days) from the date of received payment. The Client understand that should they require earlier completion, there will be a flat fee of \$150.00 to be paid before completion. A rush processing payment ensures the completion of your website at high priority, however does not guarantee the website will be completed within a particular time frame, mainly due to 'Client Delays' and 'General Delays' as found under the title 'Delays' found within these terms.

BUT WHERE'S ALL THE HORRIBLE SMALL PRINT?

Just like a parking ticket, you can't transfer this contract to anyone else without our permission. This contract stays in place and need not be renewed. If for some reason one part of this contract becomes invalid or unenforceable, the remaining parts of it remain in place.

Although the language is simple, the intentions are serious and this contract is a legal document under exclusive jurisdiction of Australian courts.

REFUNDS AND CANCELLATIONS

If for some reason, you are not satisfied with our services, please apply for the cancellation within the first 15 days of your payment date.

We do not refund partial months on any recurring month-to-month services. If you paid for a month and cancel the service before the month has begun, we will refund for the month.

If you cancel your account within the first 12 months and require a backup of the website and its files then a pay-out charge applies. The pay-out charge is the equivalent of the remaining months of the 12 month period. For example, if you have enjoyed 8 months service but need to cancel and receive the website with its files, then the pay-out charge will be: 4 x monthly fee.

Setup charges and Domain Name Registration, transfer, or renewal fees, if any are not refundable.

If an SSL certificate has been issued, no refund is available for any reason.

Once a website template has been selected, there is no option to change it, and there are no refunds once the design has been accepted and we have begun work. However you may pay an additional setup fee (\$99.00) during the design phase only, should you wish to change the template for which your website will be based.

Accounts that are either cancelled, deactivated, and/or have services suspended for violation of our terms of service, or accounts that exceed their disk or bandwidth usage amount do not qualify for any refunds.

Requests to cancel accounts or the termination of your payment plan with us will result in the immediate deactivation of your account.

To apply for the cancellation and/or refund, you must send us an email at jackie@kdandm.com.au.

ACCEPTABLE USE POLICY

Spam. If you use the Services to transmit email, you must do so responsibly. Sending or promoting SPAM using the Services is prohibited and will result in immediate termination of your account. We consider SPAM to be the transmission of any email messages that are in violation of the most recent regulations issued by the Australian Communications and Media Authority SPAM Act.

Overburdening Resources; Overuse. You may not overburden the Services. You may not place excessive burdens on our, or the providers of Third Party Services', CPUs, servers or other resources or interfere with the services we provide to other customers. You may not use excessive bandwidth or data transfer.

Our pricing is partially based on the number of monthly visits to your site, which is set to 10,000 visits per month. You agree not to exceed this amount.

If you do, you won't be automatically billed. We'll reach out to you to understand what's happening, and see if we can work together to create a solution. This may involve technical solutions or moving you to a higher plan that allows a higher number of visits.

Email: The total quota for 50 email addresses is 50GB. Each mailbox has a quota of 1 GB.

Plugins

We disallow only a handful of plugins out of the 36,000 and growing number of available plugins. Generally plugins are disallowed because they collide with the solutions that we put into place as part of our service offerings and provide a security risk to your website. If there is the situation where the functionality you request of your website requires a forbidden, or becomes a banned plugin where it previously was not, then we will work with you to find a suitable replacement.

PRIVACY POLICY

Introduction

KD&M regards customer privacy as an important part of our relationship with our customers. The following privacy policy applies to all KD&M users, and conforms to Internet privacy standards.

If you have questions or concerns regarding this statement, you should first contact us immediately.

Collection of Information

In order to use the KD&M website, we may require information from you in order to provide the best service possible.

All correspondence may also be collected and stored, particularly in regard to sales, support and accounts, including Email.

Any information collected by KD&M is collected via correspondence from you or your company. This may be via the telephone, Email, mail, fax or directly through our website.

Use of Collection Information

Any details collected from KD&M customers is required in order to provide you with our products and/or services, and a high level of customer service.

Correspondence is recorded in order to provide service references, and to assist in our staff development.

Storage of Collected Information

The security of your personal information is important to us. When you enter sensitive information (such as credit card numbers) on our website, we encrypt that information using secure socket layer technology (SSL). When Credit Card details are collected, we simply pass them on in order to be processed as required. We never permanently store complete Credit Card details.

We follow generally accepted industry standards to protect the personal information submitted to us, both during transmission and once we receive it.

If you have any questions about security on our Website, you can email us at jackie@kdandm.com.au.

Access to Collected Information

If your personally identifiable information changes, or if you no longer desire our service, you may correct, update, delete or deactivate it by emailing us at jackie@kdandm.com.au.

Orders

If you purchase a product or service from us, we may request certain personally identifiable information from you. You may be required to provide contact information (such as name, Email, and postal address) and financial information (such as credit card number, expiration date). We use this information for billing purposes and to fill your orders. If we have trouble processing an order, we will use this information to contact you.

Communications

KD&M uses personally identifiable information for essential communications, such as Emails, accounts information, and critical service details. We may also use this information for other purposes, including some promotional Emails. If at any time a customer wishes not to receive such correspondence, they can request to be removed from any mailing lists by emailing us at jackie@kdandm.com.au.

You will be notified when your personal information is collected by any third party that is not our agent/service provider, so you can make an informed choice as to whether or not to share your information with that party.

Third Parties

KD&M may at its discretion use other third parties to provide essential services on our site or for our business processes. We may share your details as necessary for the third party to provide that service. These third parties are prohibited from using your personally identifiable information for any other purpose.

KD&M does not share any information with third parties for any unknown or unrelated uses.

Legal

We reserve the right to disclose your personally identifiable information as required by law and when we believe that disclosure is necessary to protect our rights and/or comply with a judicial proceeding, court order, or legal process served on our Website.

Links

Links on the KD&M site to external entities are not covered within this policy. The terms and conditions set out in this privacy statement only cover the domain name of KD&M.

Changes to Privacy Policy

If we decide to change our privacy policy, we will post those changes to this privacy statement, the homepage, and other places we deem appropriate so that you are aware of what information we collect, how we use it, and under what circumstances, if any, we disclose it. We reserve the right to modify this privacy statement at any time, so please review it frequently. If we make material changes to this policy, we will notify you here, by Email, or by means of a notice on our homepage.

Security Policy

KD&M uses the eWAY Payment Gateway for its online credit card transactions. eWAY processes online credit card transactions for thousands of Australian merchants, providing a safe and secure means of collecting payments via the Internet. All online credit card transactions performed on this site using the eWAY gateway are secured payments.

Payments are fully automated with an immediate response.

Your complete credit card number cannot be viewed by KD&M or any outside party.

All transactions are performed under 128 Bit SSL Certificate.

All transaction data is encrypted for storage within eWAY's bank-grade data centre, further protecting your credit card data.

eWAY is an authorised third party processor for all the major Australian banks.

eWAY at no time touches your funds; all monies are directly transferred from your credit card to the merchant account held by KD&M.

Delivery Policy

After ordering online, you will receive an email confirming receipt of your order within a few minutes of ordering. We will then send you an invoice containing your order details and payment methods.

Once payment has been received, we will send you an email the next working day that confirms your account details, an invitation to our online customer portal, your 'Website Creative Brief, and other information which details the first stages of the website development.

A KD&M representative is available to speak to you at every stage of your order, please contact us.

KD&M will use commercially reasonable efforts to perform the services of website design (website template re-branding), and hosting setup within 2 weeks of confirmation of order. KD&M delivery timeframes depend upon the Client's prompt response to any questions or requests for client materials.

WEBSITE DISCLAIMER

The information contained in this website is for general information purposes only. The information is provided by KD&M and while we endeavour to keep the information up to date and correct, we make no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability, suitability or availability with respect to the website or the information, products, services, or related graphics contained on the website for any purpose. Any reliance you place on such information is therefore strictly at your own risk.

In no event will we be liable for any loss or damage including without limitation, indirect or consequential loss or damage, or any loss or damage whatsoever arising from loss of data or profits arising out of, or in connection with, the use of this website.

Through this website you are able to link to other websites which are not under the control of KD&M. We have no control over the nature, content and availability of those sites. The inclusion of any links does not necessarily imply a recommendation or endorse the views expressed within them.

Every effort is made to keep the website up and running smoothly. However, KD&M takes no responsibility for, and will not be liable for, the website being temporarily unavailable due to technical issues beyond our control.

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You may not, except with our express written permission, distribute or commercially exploit the content. Nor may you transmit it or store it in any other website or other form of electronic retrieval system.

HOURS OF OPERATION

Business hours are 8am – 5pm Monday-Friday. Excluding Public Holidays.