

Terms and Conditions

These terms and conditions are applicable to all development projects undertaken by webEDGE. If the project is to be hosted by webEDGE please view the separate hosting terms and conditions.

<p>1. DEFINITIONS</p> <p>1.1 In this agreement the following definitions apply unless otherwise specified:</p> <p>1.2 'Confidential Information' includes:</p> <p>1.3 (a) Source code and other aspects of the backend design developed for the client; and any other material which the client advises webEDGE is confidential.</p> <p>1.4 (b) Confidential Information does not include material which is already publicly available or lawfully becomes publicly available after it is received from the client.</p> <p>1.5 'Intellectual Property' means all intellectual property rights including but not limited to copyright, inventions, patents and patent applications, trademarks, software source codes, text, images and trade-secrets.</p> <p>2. THIS AGREEMENT</p> <p>2.1 The client has completed an Application Form to request webEDGE provide services on terms contained in this Agreement</p> <p>2.2 The Agreement commences from the date of signing and remains in force until expiry of the term</p> <p>3. PAYMENT</p> <p>3.1 The Client must pay webEDGE for work undertaken for the Services</p> <p>3.2 Development work undertaken by webEDGE is invoiced on the last working day of the month with payment due 20th of the following month.</p> <p>3.3 All payments for third party fees or costs incurred by webEDGE are based on a 7-day cash payment basis.</p> <p>3.4 Any goods and services tax (or equivalent sales tax or duty imposed outside of New Zealand) that may be payable on development costs are payable by the client.</p> <p>3.5 webEDGE will be entitled to recover all costs, fees and/or charges incurred by webEDGE for debt collection from the client or other enforcement costs of these agreement terms.</p> <p>3.6 If fees are not paid webEDGE can charge interest on overdue accounts at a rate of 1.5% per month calculated on a daily basis until payment is received in full but without prejudice to webEDGE's rights and remedies under these terms.</p> <p>3.7 If fees are not paid webEDGE reserves the right to cease work on any matter until the amount outstanding is paid. WebEDGE will not be responsible for any failure to meet any time constraints, in relation to the work being undertaking nor will webEDGE be liable to the client in respect of any expenses, losses or any other consequences occasioned by its deferring commencing or ceasing work (temporarily or permanently) on the matter.</p> <p>4. CLIENT'S PROPERTY AND STORAGE</p> <p>4.1 If webEDGE agrees to duplicate or transfer stored digital material on disk, CD or any other form of digital storage media to the client, webEDGE has the right to charge for that service. Discs, CD-ROM and any other form of digital storage supplied by the client to webEDGE will remain the property of the client. Unless advised in writing webEDGE will assume these are duplicates of the original.</p> <p>4.2 The client's property and all property supplied to webEDGE by or on behalf of the client will be held at the client's risk. Every care will be taken to secure goods where the client supplies materials or equipment.</p>	<p>5. CONFIDENTIALITY</p> <p>5.1 WebEDGE will treat all confidential information belonging to the client in the strictest confidence and will not, without the prior written approval of the client.</p> <p>(a) Disclose the confidential information to any person or organization outside WebEDGE; or</p> <p>(b) Disclose the confidential information to any director, employee, or agent of webEDGE who does not need to know the Confidential Information for the purpose of this Agreement; or</p> <p>(c) Use any of the confidential information other than for the purpose of this Agreement or otherwise in any way which will be detrimental to or in conflict with the interests of the client.</p> <p>6. INTELLECTUAL PROPERTY</p> <p>6.1 Client Intellectual Property. The Client retains all present and future Intellectual Property right in the content, client materials and end user information. The client grants to webEDGE a licence during this term: To use and reproduce the hosted content to fulfill its obligations to the Client under this agreement and for publicity and promotional purposes as it considers necessary;</p> <p>6.2 Unless the client otherwise directs to use the Clients name in promotion of activities and</p> <p>6.3 To use reproduce and adapt the end user information for reporting marketing and promotional purposes provided that such use is not client specific</p> <p>6.4 webEDGE intellectual property. webEDGE retains all present and future intellectual property rights subsisting in webEDGE material, all material relating to software coding or other material stored on the web environment.</p> <p>6.5 Retention of Rights. Notwithstanding anything in this Agreement to the contrary, webEDGE Limited will retain all right, title, and interest to all of the work until such time as the client has made full payment.</p> <p>7. WARRANTIES</p> <p>7.1 The client warrants that the client material content</p> <p>(a) does not infringe any third party intellectual property rights or other rights</p> <p>(b) does not breach any law, standards, content requirements or applicable codes of conduct</p> <p>8. LIMITATION OF LIABILITY</p> <p>8.1 Notwithstanding anything else in this Agreement, webEDGE will not be under any liability whatsoever to the client for any loss of profit, loss of bargain loss of business opportunity, or exemplary damages or exemplary losses suffered by the client arising out of or flowing from any breach of contract or any pre-contractual misrepresentations or other dispute arising out of these standard terms of engagement and whether actionable in contract to including negligence equity or otherwise.</p> <p>8.2 webEDGE will be liable if the services are not supplied to a reasonable standard, provided however that in no event will webEDGE's liability exceeds the price for the services.</p>
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9. OUTSIDE INFLUENCES

9.1 webEDGE will not be responsible for any delay, default loss or damage due to any industrial disputes, accidents, hackers, Acts of God, equipment failure or mischievous damage or other causes beyond webEDGE's control.

10. THIRD PARTY CLAIMS

10.1 webEDGE will not be liable for any indirect or consequential loss or for the loss to a client arising from third party claims occasioned by errors in carrying out the work or by delay in delivery or by failure in equipment.

11. CONSUMER GUARANTEES ACT 1993

11.1 The client acknowledges that it acquires the services for a business purpose and that the Statutory guarantees and implied terms, covenants and conditions contained in the Consumer Guarantees Act 1993 are excluded and do not apply.

12. SUITABILITY

12.1 No guarantee will be given or implied that the goods or services supplied to the client's instructions or designed by webEDGE to those instructions are suitable for specific market requirements unless those are documented and / or form part of the original Proposal

13. Technology

13.1 webEDGE only supports technologies for browsers and computer settings that were current at the time of development. webEDGE accepts no responsibility if technology changes and a product or service is no longer accessible.

14. General

14.1 **Applicable Law** These terms will be governed and construed in accordance with the laws of New Zealand, and both parties consent to jurisdiction and venue in New Zealand.

15. Assignment.

15.1 The client may not assign its rights and obligations under this agreement without the prior written consent of webEDGE Limited (which consent may not be unreasonably withheld).

15.2 webEDGE may assign or novate its rights and obligations under this agreement by notice to the client.

16. Waiver

16.1 No right under this agreement will be taken as waived except by notice in writing signed by the party entitled to waive the right.

16.2 A waiver by a party will not prejudice its rights in respect of any subsequent breach of this agreement by the other party.

16.3 Any failure by a party to enforce any part of this agreement or any forbearance, delay or indulgency granted by the party will not be construed as a waiver of the party's rights under this agreement.

17. Severability.

17.1 Should a court of competent jurisdiction find any term or portion thereof, unenforceable, that term will be enforced to the maximum extent permissible so as to effect the Parties' intent, and the remainder of this Agreement will continue in full force and effect.

18. Entire Agreement.

18.1 These terms and conditions, the application form and the proposal constitutes to entire agreement between the parties, and supersedes all previous agreements, negotiations representations between the parties whether written or oral.

19. Consultation.

webEDGE agrees to ensure full consultation with the client throughout the development process.

webEDGE Limited

..... (Signature)

Full Name: Gavin Richard Dixon

Designation: Chief Executive Officer

Date:

Signature of witness

Name of witness

Occupation

address

Client

..... (Signature)

Full Name:

Designation:

Date:

Signature of witness

Name of witness

Occupation

Address