



## *Service Level Agreement*

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FX Web Creations Pty Ltd ("The Company") agrees to furnish services to the Client, subject to the following SLA (Service Level Agreement). From herewith in this SLA and AUP, the usage of "us", "we", "our", "ours" shall constitute reference to FX Web Creations Pty Ltd, the usage of "you", "your", "they", "them" shall refer to client / customer of FX Web Creations Pty Ltd.

Use of company services constitutes acceptance and agreement to the company's AUP as well as the company's SLA (Service Level Agreement). All provisions of this contract are subject to the SLA (Service Level Agreement) of FX Web Creations Pty Ltd and AUP (Acceptable Use Policy). The AUP may be changed from time to time at the discretion of the Company. Subscriber understands that change to the AUP by the Company shall not be grounds for early contract termination or non-payment.

### *Disclosure*

The AUP specifically prohibits the use of our service for illegal activities. Therefore, Subscriber agrees that the Company may disclose any and all subscriber information including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification to the Subscriber.

### *Commercial Advertising- Email (SPAM)*

Spamming, or the sending of unsolicited email, from a FX Web Creations Pty Ltd server or using an email address that is maintained by FX Web Creations Pty Ltd is STRICTLY prohibited and will qualify your site for immediate deactivation with no refund. FX Web Creations Pty Ltd will be the sole arbiter as to what constitutes a violation of this provision. Additionally claims investigated by FX Web Creations Pty Ltd about spam from any of our users or users of theirs, will be fined and billed for such work. The fee for such an instance if you are found to be at fault is \$1 per email sent and up to a \$1000 fine per incident.

### *Server abuse*

Any attempts to undermine or cause harm to any FX Web Creations Pty Ltd server or customer of FX Web Creations Pty Ltd is strictly prohibited. FX Web Creations Pty Ltd holds no responsibility for the use of our clients' accounts. Any account that abuses server resources and is not corrected, calls for immediate de-activation without any refund of payments made thus far. Any site using what we deem to be using excessive cpu cycles or any resources that cause strain to other sites may also be offered new terms.

### *Development and Design Services*

FX Web Creations will develop the Web Site in accordance with the Functional Specification, Technical Specification and Project Proposal. The Client will provide FX Web Creations with design and navigation hierarchy, imagery and other Company Content as the client deems appropriate for incorporation into the Web Site. All aspects of the Web Site developed by FX Web Creations are subject to approval by the client prior to implementation. The Web Site

shall include the client's Content (as long as it is provided in a timely fashion), as well as original graphics and other material created by FX Web Creations exclusively for the Web Site. FX Web Creations shall provide or obtain, at its expense, all necessary programming and other production services and materials in order to implement the Site Specifications. FX Web Creations shall consult with Company throughout the development of the Web Site.

### **Web Site Development and Design Deliverables**

Notwithstanding anything to the contrary contained herein, FX Web Creations shall deliver to Company: (a) all HTML or other formatted text files, all related graphics files, data files, modules, routines, objects, computer software, all Utilities developed by FX Web Creations and a list of Utilities approved by Company which are provided by third parties, and all other script or program files required to operate the Web Site, (b) the complete Source Code for the Web Site and all portions thereof, and (c) all related data or information required to enable Company to support, maintain and modify the Web Site, including without limitation, Utilities and other programs enabling Company to generate detailed statistical reports on user access of the Web Site, self-authoring tools enabling Company to easily update the Web Site without third party assistance, and all programs and information required for Company to maintain and operate the Web Site to ensure access to the Web Site by all users at all times on a 24-hour per day, seven days per week basis. Deliverables will in all cases conform to the Site Specifications and/or any modifications documented, provided to FX Web Creations and FX Web Creations agreeing they are within scope. FX Web Creations will only provide such deliverables if the client is paid in full in accordance with the timeline provided by FX Web Creations.

### **Intellectual Property**

Intellectual Property means all statutory and other proprietary rights (including rights to require information be kept confidential) in respect of inventions, copyright, trade marks, designs, patents, trade secrets and all other rights as defined by Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967, all rights to apply for the same and, for the avoidance of doubt, includes:

- Patents under the Patents Act 1990 (Cth.);
- Copyright and moral rights vesting by virtue of the Copyright Act 1968 (Cth.) in literary works (including computer programs), dramatic works, musical works, artistic works, films, sound recordings, broadcasts, published editions and certain types of performances; Trade marks registered under the
- Trade Marks Act 1995 (Cth.)
- Designs registered under the Designs Act 2003 (Cth.)

### **Contact & Billing Information**

You must provide us with, and keep current, good contact information for you. E-mail and telephone contacts are required. This information can be updated by contacting us on [accounts@fxwebcreations.com.au](mailto:accounts@fxwebcreations.com.au)

### **Additional Fees & Charges**

Following additional fees & charges are GST exclusive:

- Credit Card "Declined Payment" Fee of \$20.00 per failed attempt after the first attempt.
- Service suspended for non-payment is subject to a reactivation fee of: \$20.00
- Standard hourly rate for development, programming and website updates: \$150 p/h

### **Billing, Payments and Fees**

Subsequent payments are due on the due date of the service. Services may be suspended on accounts that are not paid in full by or in excess of 30 days from the due date. If any terms or conditions are failed to be followed the account in question will be automatically deactivated. All credit card accounts are to be automatically billed on their due date unless otherwise requested by the client. We are not responsible for any fees accessed on the client by their bank as a result of the client's account being invoiced.

### **Cancellation**

All cancellations must be sent to [accounts@fxwebcreations.com.au](mailto:accounts@fxwebcreations.com.au). While there are no cancellation fees (unless under minimum contract), you must cancel seven (7) days prior to your next billing cycle. Payments made up to your next renewal anniversary date are not refundable. This does not include any added support or service fees you have contracted us to provide. We reserve the right to remove any account without advanced notice for any reason at any time without prior notice.

### **SLA and Credit for uptime**

All users are subject to the terms of this SLA (Service Level Agreement) and our AUP (acceptable use policy). Accounts not paid in full by their due date are not entitled to any claim to any breach of SLA for the past and current calendar month.

### **Liability and Warranty**

We are not responsible for any damages your business may suffer. We do not make implied or written warranties for any of our services. FX Web Creations Pty Ltd denies any warranty or merchantability for a specific purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by us. The client acknowledges that the service provided is of such a nature that service can be interrupted for many reasons other than the negligence of the company and that damages resulting from any interruption of service are difficult to ascertain. Therefore, client agrees that the company shall not be liable for any damages arising from such causes beyond the direct and exclusive control of the company. You further acknowledge that the company's liability for its own negligence may not in any event exceed an amount equivalent to charges payable by the client for services during the period damages occurred. In no event shall the company be liable for any special or consequential damages, loss or injury.

### **Refusal of Service**

We reserve the right to refuse, cancel, or suspend service at our sole discretion.

### **Modifications**

These terms may be modified at any time and without notice. All users previous and new clients are always subject to the newest terms posted here at all times. It is the end users responsibility to be aware of the latest terms of service and other policies at all time. It is our responsibility to provide these policies in a ready and readable form. We may or may not elect to post updates to our policies in various mediums available including but not limited to; email, forums, ticket systems, and chats.