

Standard Terms and Conditions

1. Definitions

1.1 “Websites Made Easy” shall mean WSME Limited trading as Websites Made Easy its successors and assigns or any person acting on behalf of and with the authority of WSME Limited trading as Websites Made Easy.

1.2 “Client” shall mean the Client (or any person acting on behalf of and with the authority of the Client) as described on any quotation, work authorisation or other form as provided by Websites Made Easy to the Client.

1.3 “Guarantor” means that person (or persons), or entity, who agrees to be liable for the debts of the Client on a principal debtor basis.

1.4 “Goods” shall mean Goods supplied by Websites Made Easy to the Client (and where the context so permits shall include any supply of Services as hereinafter defined) and includes Goods described on any invoices, quotation, work authorisation or any other forms as provided by Websites Made Easy to the Client.

1.5 “Services” shall mean all services supplied by Websites Made Easy to the Client and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).

1.6 “Price” shall mean the price payable for the Goods as agreed between Websites Made Easy and the Client in accordance with clause 3 of this contract.

2. Acceptance

2.1 Any instructions received by Websites Made Easy from the Client for the supply of Goods or services and/or the Client’s acceptance of Goods or services supplied by Websites Made Easy shall constitute acceptance of the terms and conditions contained herein.

2.2 Where more than one Client has entered into this agreement, the Clients shall be jointly and severally liable for all payments of the Price.

2.3 Upon acceptance of these terms and conditions by the Client the terms and conditions are binding and can only be amended with the written consent of Websites Made Easy.

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- 2.4 The Client shall give Websites Made Easy not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client or any change in the Client's name and/or any other change in the Client's details (including but not limited to, changes in the Client's address, facsimile number, or business practice). The Client shall be liable for any loss incurred by Websites Made Easy as a result of the Client's failure to comply with this clause.
- 2.5 2.4 The Client shall as soon as practicable make available to Websites Made Easy all information, documents, software, hardware, and other particulars required by Websites Made Easy for the provision of the Services.

3. Price And Payment

- 3.1 At Websites Made Easy's sole discretion the Price shall be either:
- a) as indicated on invoices provided by Websites Made Easy to the Client in respect of Goods or Services supplied; or
 - b) Websites Made Easy's quoted Price (subject to clause 0) which shall be binding upon Websites Made Easy provided that the Client shall accept Websites Made Easy's quotation in writing within thirty (30) days.
- 3.2 Websites Made Easy reserves the right to change the Price in the event of a variation to Websites Made Easy's quotation.
- 3.3 At Websites Made Easy's sole discretion a deposit may be required.
- 3.4 At Websites Made Easy's sole discretion payment for approved Clients shall be made by instalments in accordance with Websites Made Easy's payment schedule.
- 3.5 Time for payment for the Goods shall be of the essence and will be stated on the invoice or any other forms. If no time is stated then payment shall be due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices.

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3.7 Payment will be made by cash, or by cheque, or by bank cheque, or by credit card, or by direct credit, or by any other method as agreed to between the Client and Websites Made Easy.

3.8 GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

4. Risk

4.1 If Websites Made Easy retains ownership of the Goods nonetheless, all risk for the Goods passes to the Client on delivery.

4.2 Websites Made Easy shall not be held liable for any loss, corruption, or deletion of files or data (including, but not limited to, software programmes) resulting from the Services provided by Websites Made Easy. It is the sole responsibility of the Client to back-up any data which they believe to be important, valuable or irreplaceable prior to the commencement of the Services. The Client accepts full responsibility for the Client's software and data and Websites Made Easy is not required to advise or remind the Client of appropriate backup and other procedures.

5. Title

5.1 Websites Made Easy and Client agree that ownership of the Goods shall not pass until:

- a) the Client has paid Websites Made Easy all amounts owing for the particular Goods; and
- b) the Client has met all other obligations due by the Client to Websites Made Easy in respect of all contracts between Websites Made Easy and the Client.

5.2 Receipt by Websites Made Easy of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then Websites Made Easy's ownership or rights in respect of the Goods shall continue.

6. Client's Disclaimer

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6.1 The Client hereby disclaims any right to rescind, or cancel any contract with Websites Made Easy or to sue for damages or to claim restitution arising out of any misrepresentation made to the Client by Websites Made Easy and the Client acknowledges that the Goods are bought relying solely upon the Client's skill and judgment.

7. Software

7.1 Where Websites Made Easy has provided computer software and documentation to the Client, Websites Made Easy retains ownership of the computer software and documentation, but grants a licence to the Client for use of the computer software and documentation. The Client will use any third-party software supplied by Websites Made Easy, and identified as such, strictly in terms of the licence under which it is supplied.

7.2 All third-party software is provided at the Client's own risk and is not in any way warranted by Websites Made Easy nor shall Websites Made Easy be in any way responsible for the implementation or effects of any "patches", "updates", or "fixes" offered by the manufacturer of the software.

8. Consumer Guarantees Act 1993

8.1 If the Client is acquiring Goods for the purposes of a trade or business, the Client acknowledges that the provisions of the Consumer Guarantees Act 1993 do not apply to the supply of Goods by Websites Made Easy to the Client.

9. Intellectual Property

9.1 Copyright in all designs, reports, specifications, documents, and other materials provided to the Client by Websites Made Easy shall remain vested in Websites Made Easy, and shall only be used by the Client at Websites Made Easy's discretion.

9.2 The Client warrants that all designs, materials, or instructions to Websites Made Easy will not cause Websites Made Easy to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Websites Made Easy against any action taken by a third party against Websites Made Easy in respect of any such infringement.

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9.3 If during the course of providing the Services, Websites Made Easy develops, discovers, or first reduces to practice a concept, product or process which is capable of being patented, then such concept, product or process shall be and remain the property of Websites Made Easy and the Client shall not use, infringe or otherwise appropriate the same without first obtaining the written consent of Websites Made Easy.

10. Default & Consequences Of Default

10.1 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% per calendar month and such interest shall compound monthly at such a rate after as well as before any judgment.

10.2 If the Client defaults in payment of any invoice when due, the Client shall indemnify Websites Made Easy from and against all costs and disbursements incurred by Websites Made Easy in pursuing the debt including legal costs on a solicitor and own client basis and Websites Made Easy's collection agency costs.

10.3 Without prejudice to any other remedies Websites Made Easy may have, if at any time the Client is in breach of any obligation (including those relating to payment), Websites Made Easy may suspend or terminate the supply of Goods to the Client and any of its other obligations under the terms and conditions. Websites Made Easy will not be liable to the Client for any loss or damage the Client suffers because Websites Made Easy has exercised its rights under this clause.

10.4 If any account remains overdue after thirty (30) days then an amount of the greater of \$20.00 or 5.00% of the amount overdue (up to a maximum of \$100) shall be levied for administration fees which sum shall become immediately due and payable.

10.5 Without prejudice to Websites Made Easy's other remedies at law Websites Made Easy shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Websites Made Easy shall, whether or not due for payment, become immediately payable in the event that:

a) Any money payable to Websites Made Easy becomes overdue, or in Websites Made Easy's opinion the Client will be unable to meet its payments as they fall due;
or

b) The Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

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c) A receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

11. Security And Charge

11.1 Despite anything to the contrary contained herein or any other rights which Websites Made Easy may have howsoever:

a) where the Client and/or the Guarantor (if any) is the owner of land, realty or any other asset capable of being charged, both the Client and/or the Guarantor agree to mortgage and/or charge all of their joint and/or several interest in the said land, realty or any other asset to Websites Made Easy or Websites Made Easy's nominee to secure all amounts and other monetary obligations payable under these terms and conditions. The Client and/or the Guarantor acknowledge and agree that Websites Made Easy (or Websites Made Easy's nominee) shall be entitled to lodge where appropriate a caveat, which caveat shall be withdrawn once all payments and other monetary obligations payable hereunder have been met;

b) should Websites Made Easy elect to proceed in any manner in accordance with this clause and/or its sub-clauses, the Client and/or Guarantor shall indemnify Websites Made Easy from and against all Websites Made Easy's costs and disbursements including legal costs on a solicitor and own client basis;

c) the Client and/or the Guarantor (if any) agree to irrevocably nominate constitute and appoint Websites Made Easy or Websites Made Easy's nominee as the Client's and/or Guarantor's true and lawful attorney to perform all necessary acts to give effect to the provisions of this clause 0.

12. Cancellation

12.1 Websites Made Easy may cancel any contract to which these terms and conditions apply or cancel delivery of Goods or Services at any time before the Goods are delivered by giving written notice to the Client. On giving such notice Websites Made Easy shall repay to the Client any sums paid in respect of the Price. Websites Made Easy shall not be liable for any loss or damage whatever arising from such cancellation.

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12.2 In the event that the Client cancels delivery of Goods or Services the Client shall be liable for any loss incurred by Websites Made Easy (including, but not limited to, any loss of profits) up to the time of cancellation.

13. Privacy Act 1993

13.1 The Client and the Guarantor/s (if separate to the Client) authorises Websites Made Easy to:

- a) collect, retain and use any information about the Client, for the purpose of assessing the Client's creditworthiness or marketing products and services to the Client; and
- b) disclose information about the Client, whether collected by Websites Made Easy from the Client directly or obtained by Websites Made Easy from any other source, to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.

13.2 Where the Client and/or Guarantors are an individual the authorities under clause 17.1 are authorities or consents for the purposes of the Privacy Act 1993.

13.3 The Client and/or Guarantors shall have the right to request Websites Made Easy for a copy of the information about the Client and/or Guarantors retained by Websites Made Easy and the right to request Websites Made Easy to correct any incorrect information about the Client and/or Guarantors held by Websites Made Easy.

14. General

14.1 If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

14.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New Zealand and are subject to the jurisdiction of the courts of New Zealand.

14.3 Websites Made Easy shall be under no liability whatever to the Client for any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Websites Made Easy of these terms and conditions.

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14.4 In the event of any breach of this contract by Websites Made Easy the remedies of the Client shall be limited to damages which under no circumstances shall exceed the Price of the Goods.

14.5 The Client shall not be entitled to set off against or deduct from the Price any sums owed or claimed to be owed to the Client by Websites Made Easy.

14.6 Websites Made Easy may license or sub-contract all or any part of its rights and obligations without the Client's consent.

14.7 Websites Made Easy reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change to these terms and conditions, then that change will take effect from the date on which Websites Made Easy notifies the Client of such change.

14.8 The provisions of the Contractual Remedies Act 1979 shall apply to this contract as if section 15(d) were omitted from the Contractual Remedies Act 1979.

14.9 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, drought, storm or other event beyond the reasonable control of either party.

14.10 The failure by Websites Made Easy to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Websites Made Easy's right to subsequently enforce that provision.