GRAVITY TECH

Terms and Conditions

1. Definitions

1. The phrase "Gravity Tech" means Mark Drysdale (trading as Gravity Tech).

2. The terms "we" and "us" means the official representatives of Gravity Tech.

3. The terms "you" and "client" means the individual or company seeking or having already obtained Gravity Tech's services.

4. The phrase "both parties" means both Gravity Tech and the person or company seeking Gravity Tech's services.

5. The term "entity" means any of the following: individual, organisation, business, company, or brand.

6. The term "contract" means the document that defines the work to be undertaken for the project, and the rates or total expected development cost to the client for the work to be completed.

7. The phrase "project" means the work or labour that is to be undertaken by us as described in the contract.

8. The phrases "project brief" and "scope of work" are otherwise known as "brief" and "scope" mean the entirety of the work described in the contract.

9. The phrase "Software Licensing" refers to the licensing of software or services either from Gravity Tech directly, or a third party whose software or services where we are an intermediary licensing organisation.

10. The term "Website" collectively means: the content, design, source code and media (e.g. images, video etc) that are inherent components of a related set of pages used to inform or share media on the Internet via a browser.

11. The terms "Solution" and "System" refer to a group of components or pieces of source code that work together to provide a solution to a defined problem. The subject may be further identified by preceding either term with "Computer" or "Website".

12. The phrase "Prohibited Content" means any links or digital content that:

    i. are in breach of, or could be reasonably thought to be in breach of any of the following;

       • the Broadcasting Services Act of 1992,

       • the Fair Trading Acts of the relative States or Territories of Australia,

       • the Competition and Consumer Act 2010,

       • any applicable law or industry code;

    ii. is or aims to be deceptive, misleading or aims to misrepresent an entity, or could be reasonably thought to be doing so;

    iii. is in breach of any entity's intellectual property rights, or could be reasonably thought to be in breach thereof. (Gravity Tech will act in accordance with Australian copyright law when handling copyright infringement notices, and will respond to reports of infringement that are formatted in accordance with said law.)

    iv. is defined as the following, or links to the following: pirated software, unsolicited email sending systems, adult content, cracking or hacking related content, illegal materials, or material that is deemed to be detrimental to public health, public safety or public welfare.

13. The terms "Sub-Contractor" and "Supplier" means any third party person or business that may be engaged by Gravity Tech to help deliver or supply services to the Client.

2. Acceptance

By accepting a quotation or otherwise agreeing to engage the services of Gravity Tech, you agree and accept the terms and conditions as described in this document.

3. Conditions

1. The terms and conditions noted within this document may be updated at any time, without prior notice.

2. You may accept a quotation or otherwise agreeing to engage the services of Gravity Tech: verbally, by email, by providing initial payment or by returning the signing acceptance of a quotation. We reserve the right to request a specific acceptance type depending on the type of work required.

3. All estimates and quotations are based on our understanding of your requirements and given time frame, and that any changes to the functionality – no matter how small – could incur additional costs. We will do our best to ensure we understand, we ask you do the same. Please take the time to clarify the important aspects of your requirements in your brief, to enable our estimate or quotation to be as appropriate as possible.

4. It is the client's responsibility to ensure that we have included all requirements in the estimates, quotations or proposals and that we fully understand their requirements. The client is also required to provide us with a clear understanding of the project brief, which include concepts such as:

    i. project guidelines;

    ii. business rules;

    iii. information flow;

    iv. special attributes or functionality requirements.

If the above detail (or similar) are not provided or adequately communicated, we will proceed with our understanding of the requirements given and quote or complete work accordingly.

5. Any discrepancy in quotation total; estimate total; time frame; website or project functionality arising from unclear requirements will not be borne by Gravity Tech.

6. If additional work is required to change a website or other project to meet a previously unrecognised requirement, then additional fees will occur.

7. We will make every effort to complete each project or updates in the advised time frame. By accepting these terms, you recognise that reasonable delays can be expected if the scope of work is redefined, modified (as noted in, but not limited to the sub points in section 3.4) or provision of content by the client is delayed.

8. Any delay on the client's side may delay the project and extend the delivery date beyond the projected time frame. Additionally, it is possible that this may also incur additional costs to be borne by the client.

9. Any changes to an already completed task or section of a project will attract an additional charge. This includes, but isn't limited to, sections of projects such as: functionality; design; programming; and construction.

10. The client agrees to co-operate with the representatives of Gravity Tech to enable us to provide the service or services that have been requested.

11. In the course of work, there is the potential to break or temporarily disconnect services, physical computing devices or network devices. Items such as (but not limited to): plastic components or connectors, cabling, network connectivity, server connectivity, website connectivity and email connectivity could be affected during the process of the works. You agree not to hold us responsible for any such breakages, financial loss or other loss should these events occur.

12. Each task is assigned limited man-hours. If there are minor changes that arise during development; and there are remaining unused hours; there may be the opportunity to absorb these changes within the allocated hours. This will be decided on a case-by-case basis, and no guarantee is made that this is possible.

13. Any bugs (programming errors or oversights) reported during or just after the completion of the project will not attract additional charges – provided that they do not represent a change in project scope or direction for the project. Furthermore, this does not include limitations of third party software or third party platforms. However, every effort will be made to overcome limitations discovered during development, within the time frame allocated.

14. Should limitations in a third party platform or piece of third party software threaten to impact the projected time frame or final cost, we will communicate this with you to seek your input into the solution.

15. Any modifications requested during the development will incur additional charges. Modifications requested after the final acceptance of a project will be treated as updates. All additional work, over and above the original estimates will be charged separately.

16. Under no circumstances will Gravity Tech be liable for any additional costs or delays caused by change in the project brief or scope of work.

17. All relevant information, content and any related materials needed to undertake the project are to be provided prior to the official start date. Any delay in receiving this content or material will delay the expected start date and therefore also delay the expected delivery date. In cases where there is a sizeable delay in provision of required information, content or materials you may forfeit your place in our schedule and your start date will need to be rescheduled.

18. Our websites and web applications are tested on PCs and include recent versions of following browsers: Firefox, Chrome, Brave, & Edge. We also test in iOS Safari. It is important that you test the project with us to flush out any oddities. (If you require any other specific browser testing to be done, please let us know prior to the beginning of the project.)

19. If your website or web application is not hosted with Gravity Tech, all additional man-hours required to put the project live are an extra cost that aren't included in our quotations or estimates. These hours will be charged separately. We will endeavour to complete this as swiftly as possible.

20. Websites and applications intended for general public access will be designed to be deployed on commercial grade web servers on appropriate commercial grade networks. If you intend to host them within a residential or local based network, then the website may not perform as well as expected.

21. Depending on the project requirements, there may be various third party components used. These third party components may include, but are not limited to:

    i. Frameworks;

    ii. Payment Gateways;

    iii. Plug-in licenses.

22. We will do our best to include these costs in the quotation or estimate. However, as noted above, any unforeseen limitations of third party components are beyond our control.

23. Unless otherwise stated:

    i. Payments for projects over $5,000 may be split into four 25% instalments. The 25% deposit, two 25% part way progress payment and the final 25% completion payment;

    ii. Projects less than or equal to $5,000 will require a 50% deposit.

The completion payment is required before release or deployment of the website or application.

24. The source code that Gravity Tech produces will remain copyright of Gravity Tech. The intellectual property may be licensed to you at an additional cost.

25. Once all outstanding invoices and accounts between you and Gravity Tech are settled, you are permitted to do the following with websites or application development projects:

    i. Use the source code for the purpose it was intended;

    ii. Modify the source code for extension, addition or re-use with the express purpose of further development for the specified client or subsequent owners of that legal entity.

This will under no circumstance permit:

    i. Re-selling;

    ii. Duplication;

    iii. Modification for any purpose other than as detailed above;

Items excluded from this clause are:

    i. Third party source code;

    ii. Client supplied source code;

    iii. Elements or items that are not source code (e.g. media, website design or individual design elements).

26. Maintenance contracts are available, however future changes to the third party provider's rules or policies could affect our ability to effectively provide this service. If this ever occurs, we will take appropriate and reasonable measures to support you to the best of our abilities.

27. Unless a maintenance contract is entered into, Gravity Tech takes no responsibility for the routine updates associated with any open source product (e.g. WordPress, Joomla or Drupal etc). Outside of a maintenance contract, it is client's responsibility to attend to all updates for any and all components and third party software. We also suggest that you to take regular back-ups for both peace of mind and to avoid the possibility of lengthy disruptions.

28. Clients of Gravity Tech using our proprietary built systems will be contacted on a case by case basis should any issues affecting the security or functionality of the system come to our attention. Any updates or changes will be quoted on as either a total price or hourly rate. If the system is covered by a maintenance contract, then some or all of the cost may be covered; the remaining portion will be invoiced after discussion with the client.

29. Gravity Tech may elect to resolve issues provided for in point 3.28 above without charge to the client. Should we elect to do this, you acknowledge that this does not set a precedence for future updates or fixes of any kind to be attended or resolved to without additional charge.

30. Clients accept that at times there could be unforeseen circumstances that will delay the development process. The client agrees not to penalise Gravity Tech for any genuine delay.

31. Domain registration, renewal or transfer charges are not included as a part of any project, quotation or estimate unless mentioned otherwise. Prices can be made available upon request.

32. Hosting charges are not included in the quotations unless mentioned otherwise. An appropriate hosting solution can be delivered as required. Hosting Fees may be available on Gravity Tech website, or can be made available by request.

33. By accepting these terms, you agree to ensure that any hosting service assigned to you by Gravity Tech will not be used for illegal or illegitimate purposes including, but is not limited to:

    i. transmitting or storing Prohibited Content,

    ii. selling or storing illegal goods or services,

    iii. hacking, breaching, circumventing any security or authentication measures,

    iv. bypassing any limits imposed on the hosting service,

    v. generating or transmitting spam emails.

    Any hosting service account that is found to be engaging in such activities will be suspended. Gravity Tech reserves the right to terminate the offending account at any time.

34. In the case that clients decide to organise their own hosting, Gravity Tech should be consulted before finalising your hosting agreement so that we can ensure that it meets the requirements of the technology used for the development. Please note that we will require full access with hosting support for testing and deploying the project. Gravity Tech will not be liable for any delays or errors caused by direct or indirect actions of the selected third party hosting company.

35. Unless otherwise agreed in writing, all outstanding invoices and dues must be settled prior to:

    i. the release of the project;

    ii. granting access to any relevant hosting control panel;

    iii. transfer of a website or application away from Gravity Tech's hosting service.

36. Notwithstanding any other provision in the agreement, in consideration of the client entering into this agreement with Gravity Tech; upon full payment of any outstanding invoices, Gravity Tech will grant an unconditional license to the client to reproduce, publish, communicate, use, modify, vary, or otherwise deal with the graphics, text and images that are used in the final project. This excludes any and all retained intellectual property relating to the project or production thereof, which includes digital strategies, source code, database structures, scripts, forms and functionalities.

37. Gravity Tech will not be held responsible if:

    i. Software Licensing expires or are not re-licensed due to non-payment or late payment.

    ii. a domain registration expires due to non-payment or late payment.

    Additionally, all payments for domain registrations must be made at least five (5) working days before the domain expiry date. We will do the best we can to ensure the registration does not lapse in cases where this has not happened, however, the responsibility of the payment remains solely with the client.

38. Most communication is carried out via email. It is the client's responsibility to ensure we have the most up to date and relevant email addresses.

4. Payment Terms

1. All prices are quoted without GST and are in Australian Dollars (AUD) unless otherwise noted.

2. All payments should be paid prior to the due date noted on the invoice. Where the due date is not noted, then the invoice due date will be deemed to be seven (7) days from the invoice's date of issue. If the due date passes, the invoice will be deemed as an outstanding invoice.

3. As per section 3.35, final payments are required before release of any project, hardware or system.

4. We reserve the right to charge late fees for payments that exceed the due date or that pass seven (7) days past the invoice's date of issue (as noted in section 4.2). Unless otherwise communicated in writing:

   i. late fees for programming, web development or infrastructure projects will be calculated at 2% of the project cost (compounded monthly) and shall accrue per calendar month until the day outstanding amount is paid;

   ii. late fees for Software Licensing will be calculated at 2% of the invoiced amount (compounded monthly) and shall accrue per calendar month until the day outstanding amount is paid;

   iii. late fees for System Analysis or System Design projects will be calculated at 2% of the invoiced amount (compounded monthly) and shall accrue per calendar month until the day outstanding amount is paid;

   iv. all late payments will also attract an additional administration fee of $20.00 per month.

   Commencement of these additional amounts will be added to the account once the due date has past. Gravity Tech may elect to waive all or part of these late fees. Should we elect to do this, you acknowledge that this does not set a precedence for any future late payment.

5. Should the date exceed the invoice due date by 28 days, the outstanding amount may be referred to a debt collection agency, unless a payment plan or other suitable agreement is reached between Gravity Tech and the client. By accepting these payment terms, you agree that Gravity Tech will not be liable for any costs or charges associated with the recovery of the outstanding amount, and that all charges related to the recovery of the outstanding amount (debt collection agency fees, administration fees, legal fees, etc) will paid by the client.

6. Certain costs are non refundable. These include, but are not limited to: domain name registrations and renewals, and used portions of:

   i. Software Licensing,

   ii. hosting,

   iii. purchase of computing / computer parts or systems (that have been opened, or cannot otherwise be returned).

7. Certain charges are to be payable in advance. These include, but are not limited to:

   i. Software Licensing,

   ii. domain name registrations,

   iii. hosting,

   iv. purchase of computing / computer parts or systems,

   v. deposits for projects.

5. Disputes, Liabilities and Indemnities

1. Gravity Tech reserves the right to refuse service or cease service to any individual, group or business.

2. Failure by Gravity Tech to insist upon or enforce strict adherence to any part of this agreement shall not be deemed as a waiver of the relevant section(s), nor shall not be deemed as a waiver against any future breaches of the term or condition.

3. Under no circumstances will Gravity Tech be liable for consequential damages of any nature arising from the use or application of any material provided by us, or alleged to be not provided at all.

4. The limitation of liability in any event for Gravity Tech or individuals officially representing Gravity Tech is limited to the total value of the contract or project.

5. In an event of a dispute, we reserve the right to charge the client in full for the work done as well as for the resources spent in managing the dispute. Additionally, Gravity Tech also reserves the right to charge the client without honouring any discounts that were previously honoured in good faith. Under no circumstances will Gravity Tech be liable for any damages arising from misrepresentation or misinformation.

6. Services and end products are provided without any guarantees on security or other issues leading to loss of: data, sale or reputation. We ensure to the best of our ability that our systems, hosting and end products are protected from hackers, viruses, intruders and other online or offline problems, however we will not be held liable for any disruption of services if such situation arises.

7. The client will indemnify and hold Gravity Tech and our service providers, employees, agents, officers, directors, contractors and sub-contractors (the "Indemnified Parties") harmless from your breach of any of these Terms and Conditions or any other terms, conditions, policies or procedures herein, including, without limitation, any use of content other than as expressly authorised in these Terms and Conditions. The client agrees that the Indemnified Parties will have no liability in connection with any such breach or unauthorised use, and you agree to indemnify and hold harmless the Indemnified Parties from any and all resulting loss, damages, judgements, awards, costs, expenses, and fees in connection therewith.

8. Gravity Tech will not be liable for any breach of the agreement which is caused by a matter beyond its reasonable control including, but not limited to: an Act of God; fire; lightning; explosion; war; disorder; flood; earth quake; industrial disputes; extremely severe weather; or acts of local, state or federal government or other recognised authorities.

End of Terms and Conditions

Contacting Gravity Tech

If you have any questions, suggestions or comments about our Terms and Conditions, please contact us:

Email: info@gravitytech.com.au

Website: https://www.gravitytech.com.au/contact

Up to date Terms and Conditions are available via our website: https://www.gravitytech.com.au/terms-conditions