



Terms & Conditions

Valid from 10/12/2021

hello@sixfive.com.au

www.sixfive.com.au

Terms & Conditions

These are the Terms and Conditions on which SIXFIVE PTY LTD, trading as SixFive is willing to trade with you. Any variation to these terms and conditions must be in writing and signed by an authorised officer of SixFive.

This Agreement is executed in counterparts, which will be taken together to constitute one document. The Scope of Work document also provided to you contains:

1. Definition of the Deliverables to be completed, or Service to be provided
2. The cost to complete those Deliverables, or provide that Service
3. Timeframe in which the Scope of Work will take place

PARTIES

This terms and conditions document ("Agreement") is made from the date signed by you ("Client"), between Client and SixFive Pty Ltd ("Consultant"), a New South Wales company.

RECITAL

WHEREAS Consultant is engaged in website design / development, marketing, programming / coding, website hosting and consulting services, and Client desires to engage Consultant, as described in the Scope of Work.

BODY

Client desires to retain the services of Consultant, and Consultant is willing to perform the services called for upon the terms and conditions set forth in this Agreement. NOW THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter entered into, the parties mutually agree as follows:

1. Term. The initial term of this agreement is defined in the Scope of Works from the date signed by Client. After this initial term, this Agreement can be extended at any time by mutual consent of the parties: If Client requests, via online sign up, email or phone, Consultant to do additional work, and Consultant accepts, then that work performed will be considered to be done as an extension of this agreement. Unless otherwise noted, such work would be billed at the hourly rate defined below.

2. Duties & Timing (aka herein "Scope of Work"). Consultant shall provide services (as mutually agreed upon in advance by the parties hereto) to Client, as assigned by Client. Specifically, the engagement scope is provided in the referring Scope of Works document or on sixfive.com.au.

3. Fees & Terms. All monetary terms herein refer to Australian dollars. The project outlined above shall be billed per the following:

Flat-fee Consulting & Development Services. The work to be carried out for this engagement is noted in the Scope of Work. This provides a payment schedule,

and the points at which payment is due with estimated timelines. This fee includes all administration, configuration, etc., as described in the scope.

Care Plan & Development Services. The work to be carried out for this engagement is noted in the Scope of Work or Website. Invoices are generated on 1st of each month (net 15 days), and you are provided with a link to view the timesheet on request.

Priority. Website Hosting or Google Workspace clients that are affected by an outage that prevent business to be conducted are our first priority. Care Plan clients take priority for ad-hoc requests on a daily basis. Fixed price project clients take priority to deliver to the timelines we have agreed to. We reserve the right to alter this priority based on our commitments.

Hosting Fees. If Managed Wordpress Website Hosting is part of this engagement, fees are detailed in the Scope of Works provided. Hosting is on a 12 month contract, and fees are paid annually, or monthly, with the 12 month contract renewing on the anniversary date.

Google Workspace Fees. Google's Google Workspace fees are detailed in the Scope of Works provided and are charged by the number of user accounts. Contracts are on a 12 month basis, and fees are paid annually, or monthly, with the 12 month contract renewing on the anniversary date.

Adding Licenses New user accounts can be added during the term and charged pro-rata to the contract anniversary. Any unused licenses will be used prior to adding a new license. Client shall notify Consultant via the prescribed online form when a new user is required.

Deleting Licenses. Licenses can only be reduced at the contract anniversary. However Consultant can release a license by deleting and migrating content from an existing user account, and then the license can be re-used for a new user. Client shall notify Consultant via the prescribed online form when a user is to be deleted.

Renewal. Invoices are issued with the number of licenses in use at that date, 14 days prior to the anniversary renewal to provide time to make any necessary changes. Client is responsible to notify Consultant of any changes prior to the anniversary date.

Changing Subscription. Adjusting the package level (e.g. upgrade from Basic to Business) can only happen at the contract anniversary.

Cloud Backup. If Cloud Backup for Google Workspace is part of this engagement, fees are detailed in the Scope of Works provided. Cloud Backup is on a monthly contract, and fees are paid monthly.

Scope Changes. For specific-scoped work (which would appear above in Item #2), any additions to the scope as it appears above will incur additional fees. Prior

to any such additional work being performed, Consultant and Client will agree on the new scope, timing, and fees for such. In general, a la carte style changes or additions to an existing scope will be billed at the hourly rate defined below.

Price changes. Consultant may prospectively change specified rates and charges each year. However we will announce any rate changes well in advance.

Definition of Hourly Rate. For hourly work requested, and/or for any work in addition to a defined scope herein, the hourly rate shall be \$160 for web development, web design, programming and SEO services, consulting work, and other higher-level work, billed reflecting actual time spent. Please note that for other work like copywriting / blog posting, photography, illustrations, social media posting, or adding items to an online store, we can source qualified assistants to attend to those tasks at a reduced rate. Please let us know anytime if your company needs any of these services.

Additional Fee Potential. In some cases (1) the Client or (2) third parties not under the supervision of Consultant (e.g., other staff of, or Consultants for, Client) may have access to the web site, server, relevant work files, etc. If such a party makes changes, alterations, deletions, errors, etc. that Consultant needs to repair, Client agrees that Consultant may bill Client for said repairs at the above hourly rate (if asked to repair any such damage).

Materials and Outside Services. If materials and/or outside services are required by Consultant for the performance of services (e.g., imagery purchases, software purchases, CMS extension purchases, hardware, server space / hosting, domain names, hotel, airfare, and/or other expenses), as mutually agreed upon in advance, Client agrees to reimburse Consultant for any such expenses, which will be enumerated on an invoice.

Meetings and Calls. Time spent in meetings and calls (aside from those related to any flat-fee scope outlined above) with Client is considered billable time. If it's a working meeting (strategizing, planning, scoping out a new project, etc.), it's billable.

CMS and Other Software Updates. Please understand that among the very top ways that sites get hacked is when site owners do not regularly apply updates and security patches. As such, as the owner of the website it is your responsibility to make these updates. We provide and recommended Care Plans so we can help you do this and make other updates.

WordPress Care Plans. Care plans are billed monthly, with no ongoing contract. Consultant will apply routine software updates to your Wordpress website and to your web site's extensions as they become available (or monthly, if such updates aren't security-related). Consultant will bill for any applicable software costs (for sites running commercial extensions) unless you provide the licenses. Other tasks can be completed such as content updates according to the Plan you choose from the Scope of Work. If there are significant updates needed or complex

situations not covered by the Care Plan, you will be contacted prior to the work being done. We try to avoid premium commercial plugins, but if your site uses them and they are paid, for in your Care Plan on termination you will need to purchase your own licences.

Google Workspace Care Plans. Care plans are billed monthly, with no ongoing contract. Google Workspace is a huge software platform designed to help your company keep your Intellectual Property secure, your staff be more productive, accountable and efficient. Please understand that the number one way for accounts to be hacked is through emails received and actioned by users, through a lack of security awareness. Consultant will provide services detailed in the Scope of Work as required by you, or on the schedule defined in the Scope of Work.

Domain Names. Domain Names managed by Consultant will automatically renew on the anniversary date. Invoices will be sent to Client 30 days prior to the anniversary.

Exclusions. Fees exclude, and Client is responsible for, all sales, use, excise, VAT, GST, similar taxes or levies, and other assessments, except those levied against the income of Consultant.

Payment Method. The fees quoted herein assume payment by bank deposit. Annual & Monthly Services and Care Plans are to be paid by Credit Card or Direct Debit. If an alternative payment method is desired (pending acceptance by Consultant), Consultant may markup payment amount(s) to cover additional time or fees involved.

Payment Schedule: Unless otherwise specified in Scope of Work, or because product defines other payment terms, the payment schedule is detailed in the Scope of Work.

Flat-rate projects we bill projects on 30% Advance, 30% Beta, 40% Completion even though we will deliver smaller units of work constantly during the project we find that this works best for your peace of mind.

Care Plan. For ongoing Care Plan projects we will we bill the same day each month the plan was started (net 15 days). We will provide you with a timesheet each month to monitor progress on request.

Services. For Services resold by Consultant (provided by a third party) will be billed 28 days prior to the due date, with 7 day terms.

Completion. Completion is defined as Client signing off on the development web site and authorizing Consultant to move the web site to its intended final live state, (or 30 days from Beta delivery).

Project Delays and/or Abandonment. If any stated timeline herein or as assigned is not met, parties agree to remain in communication about such delays as soon

as is practicable. In cases in which a delay is extended (at Consultant's reasonable discretion), Consultant may invoice client for an amount due commensurate with the progress made and time invested to that point, and Client agrees to honor such invoices. Client acknowledges that, in such cases, any remaining work may need to be rescheduled, as Consultant's time may be allocated to other clients. In extreme cases, such as project abandonment by Client, Consultant may opt to terminate the agreement. Client acknowledges that, if an abandoned project is reopened, a new scope, timeline, and fee structure will apply.

Your responsibilities. Customer will provide all required material ("Customer Material") to Consultant according to the Scope of Work to be incorporated into the Website. All Customer Material will be provided in a form suitable for incorporation into the Website without any modification by Consultant. If any person makes any claim alleging that the Customer Material or any use of it by the Consultant in accordance with this Agreement, infringes any Intellectual Property right or any other right of any person, Customer must indemnify and hold harmless Consultant from and against any such claim and from and against any loss (including reasonable legal fees) arising in connection with the claim.

Make Payment. Customer will pay the Service Fee and any Additional Fees incurred under this Agreement.

Google Workspace. If Google Workspace is part of this agreement you are responsible of notifying us of any changes to your users, or if you wish to alter your subscription. You are responsible for agreeing and complying with Google Workspace's terms and conditions available when you sign up to your new account. These are available for review at any time [Google Workspace Online Agreement](#), [Additional Product Terms](#), and [Google Workspace Service Level Agreement](#)

Testing. Consultant will perform tests of the work to ensure it meets the reasonable definition with the Scope of Work prior to handover. Customer is responsible for completing further testing to gain satisfaction the code functions as desired, prior to approval to move the code to it's live state for use by others.

Data Management. It is your sole responsibility to maintain regular offsite backups of your data. You will not hold Consultant liable for incomplete, out of data or corrupt data recovered from backups and archives. Consultant is under no obligation to maintain a backup of your data. In the event of hard disk failure or data corruption of web hosting or dedicated server Consultant will restore data from the last known verified archive. Consultant is not responsible for ensuring you are using the most recent version of any third party software nor are responsible for any subsequent data management issues which may result.

Passwords & Security You are responsible for keeping your passwords secure, and you agree not to disclose your passwords to any third party.

You are solely responsible for any activity that occurs under your user names and accounts, including any sub-accounts. You must notify SixFive immediately of any unauthorized use of your accounts or any other security breach related to the Service. If SixFive determines that a security breach has occurred or is likely to occur, SixFive may suspend your accounts and require you to change your user names and passwords.

Payment Timing. For normal invoicing, which is done electronically via email on or around the 1st and 15th of each month, acceptable payment terms are Net 15, unless specified elsewhere herein or on the actual invoice. We try to provide ways to expedite this process (e.g., accepting credit cards), as late payments cause problems with cash flow, increased admin time for accounting, etc. So, if a payment is not received within 15 days of invoice, Consultant may, at its discretion suspend services to Client, add 1% until the account is settled, which may in turn cause project delays for which Client would be responsible.

Google Workspace. Late payment for Google Workspace after the due date of the invoice will result in the service being disabled until payment is made. This causes interruption of service to your business as you will lose access to everything in the service. Note that suspension means your service will not accept any inbound email, and these emails will be irretrievably lost. Note that it takes between 12-24 hours from unsuspension for Google Workspace to return to normal service.

Wordpress Hosting. Late payment for Wordpress Hosting 30 days after the due date of the invoice can result in the service being disabled until payment is made.

Domain Names. Late payment for domain names 15 days after the due date of the invoice can result in the domain name expiring, and you are at risk of permanently losing that domain if it expires and another registrant purchases it.

Nonpayment. In 20+ years of providing creative and technical client services under any business name, we have never had this issue arise, save for lost invoices or other innocent reasons. Yet, in the interest of professionalism and thoroughness, we are including it here. Basically, we would use our discretion. If we have reason to believe that a nonpayment is purposeful, then our immediate goal would be to resolve the matter to the best of our ability via normal means (calls, emails, etc.). We would cease to provide any further services until the matter or an agreement is reached. In the very rarest cases, if the relevant project was web-based, Consultant may as a last resort take down and/or disable all or part of said web site, as appropriate, and without consequence for such action and regardless of the server involved. (This has never happened to date, nor do we envision it ever happening.)

Debt Collection. You agree that any discounts, rebates or other concessions are lost if payment is not made in time. If you are in breach of any of our terms and conditions you agree that you are also responsible for all of our expenses of any kind including our legal costs and any other expense incurred by any debt collection agency we retain to recover monies you owe us. We may commence legal proceedings against you for the recovery of any account which is overdue by 60 days or more from the date of invoice.

Taxes. All fees set out in this Agreement, and associated documents are exclusive of all taxes, including any goods and services tax (GST) or value-added tax. If GST is imposed on any supply made under this Agreement, the party making the supply will collect GST from the recipient in addition to the fees payable for the supply. All amounts payable under this Agreement are expressed exclusive of GST.

In respect of any taxable supply, Customer must pay to Consultant an additional amount equal to the prevailing GST rate, payable at the same time and in the same manner as the Service Fees, subject to the receipt by Customer of a valid tax invoice.

All stamp duties and other government charges in relation to this Agreement must be paid by the Customer.

4. Confidentiality / Blanket NDA Provision. Either party may, in connection with this Agreement, disclose to the other party information considered confidential and proprietary to the disclosing party (hereinafter "Confidential Information"). Confidential Information shall include either party's financial information, whether disclosed in tangible or intangible form; terms and pricing under this Agreement; and any other non-public information identified as confidential by the disclosing party at the time of disclosure, or which by its nature is normally considered confidential, such as information related to past, present, or future research, development, or business affairs, any proprietary products, materials or methodologies, or any other information which provides the disclosing party with a competitive advantage. The receiving party shall protect the disclosing party's Confidential Information with the same degree of care that it regularly uses to protect its own Confidential Information from unauthorized use or disclosure, but in no event with less than a reasonable degree of care. No rights or licenses under patents, trademarks, or copyrights are granted or implied by any disclosure of Confidential Information. This Section shall survive the expiration or termination of this Agreement.

Obligations of confidentiality imposed by this Agreement shall not apply to any Confidential Information that: (1) is rightfully received from a third party without accompanying markings or disclosure restrictions; (2) is independently developed by employees of the receiving party who have not had access to such Confidential Information; (3) is or becomes publicly available through no wrongful act of the receiving party; (4) is already known by the receiving party as evidenced by documentation

bearing a date prior to the date of disclosure; or (5) is approved for release in writing by an authorized representative of the disclosing party.

5. Special Rights, Responsibilities, Licenses, and Provisions. This section, while somewhat extraneous, is nevertheless here for everyone's benefit. It includes information that many clients/consultants do not commonly cover when entering into a business agreement, yet these points can be highly critical components to a successful project or business relationship.

"Code" Acknowledgements. The word "code" (throughout this Agreement) refers broadly to source code of any kind -- e.g., HTML, PHP, Javascript, CSS, MySQL, or any other type of computer instruction relevant to the functionality of the web site, including comments written within that code.

a. Pre-Existing Code. Consultant may use or modify existing code on Client's web site. Client acknowledges that, for any non-open-source code used by Client, Client or third-parties own this intellectual property, and it will be treated as such.

b. New Code. For any new code developed by Consultant for this contract, Consultant hereby grants to Client, and Client hereby accepts, an unlimited, unrestricted, royalty-free, fully paid, worldwide and nonexclusive use (unless such rights are specified otherwise within the scope of work).

c. Open-Source Code. By its nature, open-source code is published and made available to the public, enabling anyone to copy, modify, and redistribute the source code without paying royalties or fees. In these situations, neither Client nor Consultant retains any rights related to this code.

d. Third-party code. Third party code or services may be purchased by Consultant for this contract on a best fit basis, including but not limited to Wordpress plugins, Wordpress themes, SEO, web design tools, software packages, hardware, components etc.,. Consultant does not provide an express or implied warranty on the quality of their product(s) nor the outcomes expected and is under no obligation to extend support for externally managed or purchased Products. However if you have signed up for a current support agreement with SixFive, we will endeavor to assist you with this in any way we can. In these situations, neither Client nor Consultant retains any rights related to this code. It is Client's responsibility to maintain associated licence and fees to the third party for the lifetime of use.

Graphics. For the purposes of this contract, if Consultant produces any graphics or original photos or videos for Client, Consultant hereby grants to Client, and Client hereby accepts, an unlimited, unrestricted, royalty-free, fully paid, worldwide and nonexclusive use. It is important to note that, graphics may include

(1) graphics purchased / licensed from third-parties, which are subject to policies from those parties, (2) independently created graphics or photos not subject to others' copyright, and (3) graphics (such as photos) from third parties, but which are provided via a Creative Commons license.

Design Revisions. For work that includes design aspects, unless otherwise specified herein, Consultant will (1) make up a version of the project, (2) present it to Client, (3) and make any reasonable changes requested by Client. ("Reasonable" refers to routine changes such as colors, fonts, moving things around a bit, sizings, etc.) That process constitutes one "round" of changes. At Consultant's discretion, additional minor changes may be welcome without incurring additional fees. However, if a requested revision at that point is considered by Consultant to be significant, major, a new direction, etc., then Consultant will discuss such with Client, as this may incur additional fees, billed at the standard hourly rate defined herein.

Other Creative Works or Approaches -- Including Promotional Copy; Text; Communications; Written Works; Marketing Methods, Systems, or Schemes; SEO Optimization Tactics; Business Efficiency Improvements, etc. For the purposes of this contract, if Consultant produces any such creative work or approaches for Client, Consultant hereby grants to Client, and Client hereby accepts, an unlimited, unrestricted, royalty-free, fully paid, worldwide and nonexclusive use.

Rights Secured. Client guarantees that any elements of text, graphics, photos, designs, trademarks, computer code, or artwork provided to Consultant for inclusion in this project are owned by Client, or Client has obtained sufficient permission to use such from a third party prior to providing Consultant access to the materials. Client will indemnify and hold Consultant, its officers, employees, and agents harmless against any and all claims, liabilities, damages, losses, and expenses should any claim, liability, damage, loss, or expense be sought against Consultant in connection with any use of such third-party materials.

Contents Conform to Relevant Regulations. In some cases, Client's site may want or need to conform to various regulatory standards. Unless specified in the scope herein, this remains the responsibility of Client. Some examples would be any accessibility guidelines needing to be met, any terms of use or privacy policies that should be stated on the site (including GDPR data privacy guidelines), HIPAA compliance, COPPA compliance, investor notices, policy statements, consumer notices, various disclosures, and/or any other similar types of conformance deemed appropriate and/or required by Client's site and/or industry standards.

General Professional Discretion. Client agrees that Consultant shall be granted professional discretion when it comes to installing software, code, or extensions on the server, as these constitute tools, code libraries, or methods necessary to perform the scope of work. This would also include making server modifications, configuration changes, file/folder clean-up-type changes, or other optimizations

designed to enhance performance, provide greater security, allow desired functionality, or otherwise improve the server environment.

Continued Server, Web Site, Domain Name, and Code Access. Client agrees that Consultant shall have full access to the web site back end as well as to the server, database, and file structure at all times, both during and after development. If Client desires to disallow such access (e.g., if the Client moves servers, hires another developer, or terminates this contract), Client agrees to give 14-day notice to Consultant so that Consultant can backup any files or code developed by Consultant, if necessary.

Google Workspace Administration. Where Google Workspace is a product used by the Client with Consultant as a partner, Consultant acts as Google Cloud Partner to Client, and as such maintains administration access to your account at admin.google.com. Consultant has no access to your data, or content of your user's account, and has limited visibility of some reports that contain user data. As such Consultant may provide instructions to Client to assist with data gathering around certain issues such as email deliverability, Google Drive, etc. Client may grant access to data via a designated user account paid for and provisioned solely for the use of the Consultant, or by providing permission to access data via API's or programmatic terms to assist in timely provision of data management, settings & configuration, or backup.

Domain Name Renewals. Unless otherwise stated above under the scope, Client acknowledges that (1) Client owns the domain name(s) involved, and (2) renewing the domain name(s) is Client's responsibility.

Acknowledgements. While this Agreement addresses liability issues, a number of common considerations, including those listed below as well as other similar considerations, regarding web development services are hereby acknowledged by Client. In all cases, Client shall not hold Consultant liable for any damages related to or arising from these issues. Client agrees that, if Consultant is asked to address any such issues, such requests constitute additional billable work and, as such, would need to be negotiated with respect to scope, timing, and fees.

Open Source Errors. Consultant utilises open source and other free code. Inherent in these systems (even the most advanced) are risks such as functionality issues, unpredictability, and other errors that could have an adverse affect on web site performance and, in turn, on a business dependent on such performance.

Third Party Code Errors. Consultant utilises code licensed from third party developers. Inherent in these systems (even the most advanced) are risks such as functionality issues, unpredictability, and other errors that could have an adverse affect on web site performance and, in turn, on a business dependent on such performance.

Issues Related to Site Upgrades, Work on Existing Sites, and/or Sites for Which Others Have or Had Direct or Indirect Access to the Server. In these situations, web servers often contain residual files, code changes, database changes, and/or server settings not created by Consultant. This also includes server directories containing legacy site backups and/or other files, for example. Unless specifically enumerated in the scope, above, the contents of these directories and any settings affecting the web server are not the responsibility of Consultant to review, clean, delete, etc. Client acknowledges that, if such directories exist and contain malicious code, then the site could potentially be compromised.

Diagnosis vs. Fixing. For consulting work where Client has a nonfunctioning site, please understand that there are (often) two phases of service required: First, we must diagnose the problem, and then we will either (1) fix it (in cases where that makes the most sense), (2) let Client know options for moving forward (e.g., perhaps an upgrade is needed, or a different way of doing something, or ... who knows what), or (3) inform Client that we cannot fix it. From there, it would be Client's responsibility to make a decision based on our analysis. Either way, time spent on the diagnosis phase (and in discussing options for moving ahead) is billable time.

SEO Rankings. Unless addressed herein, Consultant makes no representations or guarantees whatsoever about a site's success in terms of search engine rankings / placement.

SEO Unpredictability. Client acknowledges that changes to a web site can bring upon unpredictable changes in an existing web site's SEO rankings. While Consultant agrees to perform some tasks relevant to mitigating this risk, as may be included herein, Client acknowledges that Consultant has no control over how search engines may or may not favor Client's web site.

Browser & Device Compatibility. Client acknowledges that Consultant develops for the Chrome browser, and tests on the Firefox browser and Safari for iOS (current versions) using a responsive manner that provides functionality all screen sizes from desktop computer environments through tablets and mobile devices. If additional browser compatibility is requested, it will be reflected in the scope section of this agreement. Client acknowledges that not all browsers or devices (or combination therein) will render a site exactly the same, and allows for minor variations in look, feel, and/or functionality from browser to browser, at the discretion of Consultant unless otherwise noted in the scope.

Platform Compatibility. In many cases, Consultant is able to offer services specific to other user experiences, such as large-screen monitors, TV's and other display media, or specific mobile device operating systems and browser versions. In all cases experiences are not guaranteed to be

specifically addressed unless singled out in the scope section of this agreement.

Continued Performance. Consultant agrees to deliver a functional site per the scope of this agreement, as of the date of delivery. Client acknowledges that, after a site is finished, outside factors can affect a site's performance. For example, new browser releases may interpret web pages differently than before, causing a site to look or behave differently than it once did. Or, a security update applied later may render an existing component unusable. As such, all work performed is sold to client as is. Legally, "as is" refers to the condition that a product presently exists or as found on inspection immediately prior to purchase, even if damaged or defective, without modification and without any express or implied warranties.

Site Security. Client acknowledges that web sites can be victimized directly (e.g., direct attacks on the Client's host server) or even indirectly (e.g., via compromising Client's email account and/or via malware on Client's local or personal computers) by hackers. Consultant literally cannot, will not, and does not, guarantee that Client's site will not be affected or targeted, successfully or unsuccessfully, by those with malicious intent. As such, Consultant is not responsible for any losses in connection with the site being hacked. Unless specified herein under the project scope, Consultant has not been engaged to provide site security services. Client acknowledges that recovering from a breach would incur additional fees, billed at the hourly rate set forth above in Section 3. No fees will be incurred for Client on an appropriate Wordpress Care Plan with the hacker guarantee.

Site Speed. Client acknowledges that site speed (i.e., the speed with which web pages load) is a function of numerous factors including: the size / complexity of a web site, the web server's capabilities, the web server's location, Internet traffic, database complexity, the content management system, the design, the number and richness / complexity of site features, the dependence on outside sites (e.g., for retrieving and/or parsing data / information / feeds, retrieving/displaying ads, etc.), file and image sizes, compression / minification of CSS and Javascript, caching, DNS configurations, the user's Internet connection, and many other factors). If speed is a particular concern (recommended for sites with more than 500 articles and/or sophisticated or unusual features), Client is responsible for discussing such with Consultant so that specific goals and measures can be included in the scope.

Email delivery. Email is not designed to be instant, and there are hundreds of factors involved in getting delivery right. While we will put in place all of the appropriate industry standard settings (e.g. SPF & DKIM) to advertise we are sending legitimate email from your Google Workspace account or

Website, we cannot guarantee email delivery as the recipient may ignore, or not correctly read these standard signals. We will request you to provide specific information, and may need to request the recipient escalate the issue as well. Time spent on the diagnosis phase and advising with third parties (and in discussing options for moving ahead) is billable time. No fees will be incurred for Client on a Google Workspace Care Plan, or Wordpress Care Plan.

Google Workspace Security. Client acknowledges that Google Workspace accounts can be victimized directly (e.g., direct attacks on the Google servers) or even indirectly (e.g., via compromising Client's email account and/or via malware on Client's local or personal computers) by hackers. Consultant literally cannot, will not, and does not, guarantee that Client's Google Workspace account will not be affected or targeted, successfully or unsuccessfully, by those with malicious intent. As such, Consultant is not responsible for any losses in connection with the Google Workspace account being hacked. Client acknowledges that recovering from a breach would incur additional fees, billed at the hourly rate set forth above in Section 3.

Server Up-Time. If hosting is part of this agreement, note that Consultant provides web hosting via relationships with reputable hosts such as Vultr, Digital Ocean, Amazon Web Services, Rochoen, Inmotion, LiquidWeb, and Linode. Consultant has selected these host based on their pricing, record, and reputation. Up-time is certainly a factor (all report 99%+ uptime). However, ultimately, the hosting company is responsible for maintaining server uptime.

Use of Client Name / Logo. In cases where the Client is a direct client of Consultant (e.g., you are the owner of XYZ.com and you are hiring Consultant to work on XYZ.com), Consultant may use Client's business name and identify client (by business / website name, logo, screen-shot of site, etc.) as a client or customer of Consultant. In cases where an outside consulting agency is hiring Consultant to work on a third-party site, this provision does *not* apply (e.g., "white-label" work where you own ABC consulting and are hiring us to fix *your* client's web site).

Web Site Linkback. For projects primarily developed by Consultant: As is customary in this field, Client agrees that the web site shall bear a discrete credit (with a hyperlink to Consultant's web site) in the web site footer / copyright area. (Not applicable or mandatory for hourly-consulting clients, although always appreciated.)

Consultant Availability. Consultant's working hours are (generally) 9:00 a.m. - 5:00 p.m. AEST Monday through Friday. Consulting outside these hours is highly discouraged. If requested, such time may not be available or possible. However, if it (1) is available / possible, and (2) is agreeable to Consultant, such work will incur a rate at twice the hourly rate quoted above.

6. Prohibited Use. You agree that any of the below activities are considered prohibited usage and will result in immediate action being taken, including suspension, cancellation or retrieval of the Product or Service, without a refund. Consultant reserve the right to impose fees, pursue civil remedies and/or refer information to law enforcement services or another entity as proscribed under relevant legislation, without providing advance notice. Activities considered prohibited usage include, but are not limited to, the following:

Data Laws. The transmission, distribution, disclosure, or storage of any information, data or material in violation of Australian or state regulation or law, or by the common law; including but not limited to, material protected by copyright, trademark, trade secret, or other intellectual property rights.

Consultants. Use of Consultants services to facilitate infringement of any law in any way.

Spam and Unsolicited Bulk Email (UBE); Consultant has a zero tolerance policy on spam, Junk Email or UBE. Spam, Junkmail and UBE are defined as: the sending of the same, or substantially similar, unsolicited electronic mail messages, whether commercial or not, to more than one recipient; This prohibition extends to the sending of unsolicited mass mailings from another service, which in any way implicates the use of SixFive's Products whether or not the message actually originated from our network; SixFive will maintain reasonable measures in line with industry standards to ensure that hosting services under its management are not vulnerable to third party misappropriation for the purposes of spam, Junk Email or UBE.

Private Data. Providing False Data on any Contract or Application, including fraudulent use of credit card numbers.

7. Termination. This Agreement may be terminated at any time by either party effective immediately upon notice, or the mutual agreement of the parties, or if any party: (a) becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or (b) breaches any of its material responsibilities or obligations under this Agreement, which breach is not remedied within ten (10) days from receipt of notice of such breach. Each party retains the claims it has against the other.

In the event of termination, Consultant shall be compensated for the services performed through the date of termination in the amount of (a) any advance payment, (b) a prorated portion of the fees due, or (c) hourly fees for work performed by Consultant or Consultant's agents as of the date of termination, whichever is greater; and Client shall pay all expenses, fees, out of pockets together with any additional costs incurred through and up to, the date of cancellation.

Upon expiration or termination of this Agreement: (a) each party shall return or, at the disclosing party's request, destroy the confidential information of the other party, and (b)

other than as provided herein, all rights and obligations of each party under this Agreement, exclusive of the services, shall survive.

Termination for whatever cause shall be without prejudice to any rights or obligations that have accrued or are owing prior to such termination, including but not limited to payments of money. You must not assign any rights or benefits under these Terms and Conditions unless you have obtained our prior written consent. Any assignment by you without our consent shall entitle us to void any liability we may have to you under these Terms and Conditions and retrieve, cancel or suspend any Product we provide.

8. Relationship. Consultant is retained by Client solely for the purposes and to the extent set forth in this Agreement, and Consultant's relationship to Client shall during the terms of this Agreement be that of an independent Consultant. Neither party shall have any right, power, or authority to enter into any agreement for or on behalf of the other party, or to incur any obligation or liability or otherwise bind the other party. This Agreement does not create an association, joint venture, or partnership between the parties nor imposes any partnership liability upon either party. Consultant may engage, in addition to its own employees, subcontractors to provide all or part of the services set forth in the scope, above. The engagement of such subcontractors by Consultant does not relieve Consultant of its obligations under this Agreement. Consultant will use its own working space, equipment, tools and office systems.

9. Waiver, Modification, or Cancellation. This contract is meant as a living document that may change from time to time, especially as it outlines various policies governing how Consultant conducts business. As such, if Consultant makes a change to this contract that, in Consultant's sole discretion, is material in nature, Consultant will notify Client via email. If such changes occur and notifications are sent, by continuing to conduct normal business with Consultant, Client agrees to be bound by any such revisions.

10. Assignment. Either Consultant or Client may assign its rights or may delegate its duties under this Agreement.

11. Limited Warranties. Consultant warrants that Consultant has the right to enter into this Agreement and further warrants that the services will be performed in a reasonable manner; and Consultant, while on Client's premises, will comply with Client's security provisions or other policies and procedures made known to Consultant. Except as expressly set forth herein, Consultant disclaims all other warranties, express or implied, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, usage in trade, prior dealings, quiet enjoyment, and title.

12. Liability. In no event shall Consultant be liable for any damages arising from the use of the work developed under the terms of this Agreement. THE SERVICES AND THE WORK PRODUCT OF CONSULTANT ARE SOLD "AS IS"; CONSULTANT DOES NOT WARRANT THE SOFTWARE / PRODUCTS / SERVICES DESCRIBED HEREIN TO OPERATE ERROR FREE OR FREE OF DEFECTS OR THAT DATA LOSS WILL NOT OCCUR. IN ALL CIRCUMSTANCES, THE MAXIMUM LIABILITY OF CONSULTANT (INCLUDING ITS AGENTS) TO CLIENT FOR DAMAGES FOR ANY AND ALL CAUSES WHATSOEVER, AND CLIENT'S MAXIMUM REMEDY, REGARDLESS OF THE FORM OF ACTION, WHETHER IN

CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO THE FEES PAID TO THE CONSULTANT WITH RESPECT TO THIS AGREEMENT. IN NO EVENT SHALL CONSULTANT BE LIABLE FOR ANY LOST DATA OR CONTENT, CORRUPTED DATA OR CONTENT, LOST PROFITS, LOSS OF BUSINESS, CONTRACTS, PROFITS OR ANTICIPATED SAVINGS, REPUTATION DAMAGE, EMBARRASSMENT, BUSINESS INTERRUPTION OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, ECONOMIC OR PUNITIVE DAMAGES, OR ATTORNEY'S FEES, ARISING OUT OF OR RELATING TO THE MATERIALS OR THE SERVICES PROVIDED BY CONSULTANT, EVEN IF CONSULTANT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. Any action against Consultant must be brought within two (2) months after the events giving rise to the cause of action occur.

13. Force Majeure. Except for Client's payment obligations to Consultant, neither party will be deemed in breach of this Agreement for any failure or delay in performance caused by reason of fire, flood, earthquake, labor dispute, act of terrorism, act of God or public enemy, death, illness or incapacity of Consultant or any local, state, federal, national or international law, governmental order or regulation or any other event beyond Consultant's control (collectively, "Force Majeure Event"). Upon occurrence of any Force Majeure Event, Consultant shall, if able, give notice to Client of its inability to perform or of delay in completing the services and shall propose revisions to the schedule for completion of the services.

14. Governing Law. These Terms and Conditions and the relationship between you and SixFive are governed by, and you agree to submit to, the laws applicable in the State of New South Wales, Australia and the Commonwealth Personal Property Securities Act 2009 (PPSA) without regard to its conflict of law provisions.

15. Conflict of Interest. These Terms and Conditions override your terms and conditions. To the extent of any discrepancy between these Terms and Conditions and any other (including your own) terms and conditions, these Terms and Conditions prevail.

16. Sub-contractors. Consultant may appoint sub-contractors to perform Services under this Agreement.

17. Indemnity Consultant wishes to emphasize that in agreeing to these Terms and Conditions, you indemnify Consultant for any violation of said Terms and Conditions that results in loss to Consultant or the bringing of any claim against Consultant by any third party. This means that if Consultant is sued because of you or your customer's activity, you will pay any damages awarded against Consultant, plus all costs and reasonable attorney's fees.

18. Dispute Resolution. In the event of a dispute arising out of this Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation and/or binding arbitration through the Australian Disputes Centre, or other forum mutually agreed to by the parties. If Consultant is the prevailing party in any dispute resolved by binding arbitration or litigation, Consultant shall be entitled to recover attorneys' fees and

costs. Consultant's maximum total liability remains as stated above under "Liability". In all circumstances, the parties specifically consent to the local, state, and federal courts located in the state of New South Wales, Australia. The parties hereby waive any jurisdictional or venue defenses available to them and further consent to service of process by mail. Client acknowledges that Consultant will have no adequate remedy at law in the event Client uses the deliverables in any way not permitted hereunder, and hereby agrees that Consultant shall be entitled to equitable relief by way of temporary and permanent injunction, and such other and further relief at law or equity as any arbitrator or court of competent jurisdiction may deem just and proper, in addition to any and all other remedies provided for herein.

19. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, such provision shall be omitted or changed and the remaining provisions of this Agreement shall remain in full force and effect and shall be interpreted to best accomplish the objectives of the original provision to the fullest extent allowed by law.

20. Non-Waiver. The failure of either party to insist upon or enforce strict conformance by the other party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment of such party's right unless such waiver or relinquishment is explicitly made in writing, and shall not constitute any subsequent waiver or relinquishment.

21. Testimony. In the event of a suit, enforcement, dispute, litigation, arbitration, mediation, tax audit, intellectual property right prosecution, or other legal issue in which Consultant must be called upon to testify, advise, or be involved in any way with such issue, Client acknowledges and agrees to pay Consultant its applicable hourly rate, defined above, plus reasonable expenses, applicable taxes, and fees.

22. Survival. All provisions of this Agreement that would reasonably be expected to survive the termination of this Agreement will do so.

23. Headings. The numbering, captions, and typographical formatting of the various sections are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of this Agreement nor shall such headings otherwise be given any legal effect.

24. Privacy - Our Privacy Policy, available on our website or upon request to us, forms part of this Agreement. Your details and information that you provide us about yourself may be retained by us on our database. You have no rights in that database other than those outlined in relevant Australian legislation.

In accordance with Australian Privacy Principles, you agree that we may use or disclose information to third parties for the purpose of providing the Product or Service, providing information about Product or Service; sending information on our services; complying with legislative and regulatory requirements or as otherwise permitted or authorised by law; considering any other application you may make to us; and managing our rights and

obligations in relation to external payment systems, e.g. credit card schemes and debit payment schemes

We may also from time to time, with your permission, use this data when performing our administrative and marketing operations; conducting market research or customer satisfaction research; developing, establishing and administering arrangements (including rewards programs) with other organisations in relation to the promotion, administration and use of our Products or Services; and developing and identifying Products or Services that may interest you.

Any unauthorised access or disclosure of information, held by Consultant, that a reasonable person would conclude is likely to result in serious harm to any individual(s) to whom the information relates or information that is lost in circumstances where unauthorised access or disclosure of information is likely to occur and it can be reasonably concluded that such an outcome would result in serious harm to any of the individuals to whom the information relates, shall be deemed to be a data breach and will be treated, and dealt with, as outlined under the Privacy Act 1988.

25. Fitness for purpose To the maximum extent permitted by law, you agree that you do not rely on our skill or judgement in relation to the suitability of any Product or Service for a particular purpose. Any advice, recommendation, information or assistance provided by us is provided without any liability whatsoever.

26. Entire Agreement. This document (including any quotes, orders, agreements, policies, guidelines or amendments that may be presented to you via email or regular mail from time to time) constitute the entire agreement between you and Consultant on which we are willing to trade with you and all or any previous agreements or understandings we may have had with you are superseded by this Agreement. No prior or contemporaneous statements or writings may be considered in the interpretation of this Agreement. This Agreement becomes effective only when signed by both parties. Both parties warrant that they have read and understand the terms set forth herein. The parties acknowledge that both parties had the opportunity to have legal and financial counsel review this Agreement.

Consultant may alter this Agreement at any time upon written notice. All transactions after the date specified in such notices, or 30 days from the date of notification, will be subject to the altered Agreement. You agree that Consultant may provide you with notices, including those regarding changes to these Agreement, by email or regular mail. If you continue to trade with us after the date such alterations become effective you will be deemed to have agreed to the altered Agreement.