



# Managed Website Service Subscription Terms and Conditions

Version 1.1 – June 2020

By signing up and purchasing a Managed Website Service subscription, you are deemed to have read and accepted the below terms and conditions (together the “Conditions”) which set out the terms under which **Tyree Domains Pty Ltd (ACN 615 241 702)** and its related bodies corporate and partnerships (“Tyree Domains”, “We”, “Us”, “Our”) will provide the Managed Service to You.

You acknowledge that We may amend the Conditions at any time without Your prior consent by posting the amended terms and conditions on our website ([www.tyree.domains](http://www.tyree.domains)) and any new, different or additional features changing the Services will automatically be subject to these Conditions. Your continued use of the Services after any such changes to the Conditions shall constitute Your acceptance of those changes.

By accepting this agreement, you are deemed to have read and accepted our Terms and Conditions, which is available on our website.

## 1. Definitions

- 1.1. The definitions and rules of interpretation in this clause apply in this Agreement. Unless the context requires otherwise:
  - 1.1.1. “**Agreement**” means this agreement (including the recitals, schedules, appendices and exhibits to it) as it may later be amended or supplemented by the parties in writing.
  - 1.1.2. “**Customer**”, “**You**”, or “**Your**” means the person, corporation or entity who is entering into this Agreement with Us and who will use our associated products and services.
  - 1.1.3. “**Service**”, “**Service(s)**” or “**Services**” means any product or service the Customer has signed up to use.
  - 1.1.4. “**Request**” means a written submission, sent via email, that asks for one or more actions to be performed against a Service.
  - 1.1.5. “**Change Items**”, “**Change(s)**”, or “**Changes**” means action items as part of a Request submitted by You.
  - 1.1.6. “**Managed Service**” means a monthly subscription paid to Us by You, which allows You to submit Change Item(s) against a select Service to be completed by Us, in whole or part, in the form of a Request, where that Request has been accepted.
  - 1.1.7. “**Subscription Period**” means one (1) calendar month.

- 1.1.8. **“Covered Service(s)”** means Service(s) that are accompanied by an active Managed Service subscription.
- 1.1.9. **“Revision”, “Revision(s)”, or “Revisions”** means an additional review or further action to initially completed Change Items, as part of a Request.
- 1.1.10. **“Covered Changes”** means Change Item(s) that directly affect Covered Service(s), and that we consider, at our sole discretion, to be reasonable, capable of being completed by Us within a reasonable timeframe, simple in nature, and does not exceed the limitations set out in Section 4.
- 1.1.11. **“Intellectual Property Rights”, or “IPR”** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 1.1.12. **“Support Portal”** means our online helpdesk system, available at <https://help.tyree.domains>.
- 1.1.13. **“Page Element(s)”** means components that make up a web page, including rows, columns, headings, text, media, and HTML elements.
- 1.1.14. **“Widget(s)”** means a collective group of Page Element(s) that make up a reusable web component, including HTML, JavaScript, and CSS.
- 1.1.15. **“Core Element(s)”** means Page Element(s) that is/are a part of the website template, the website header, the website footer, and/or are commonly used across various pages of the website.
- 1.2. Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3. A Person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors and permitted assigns.
- 1.4. The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the schedules.
- 1.5. Words in the singular shall include the plural and vice versa.
- 1.6. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7. A reference to “writing” or “written” includes e-mail and online form submission.
- 1.8. Where the words “include(s)”, “including”, or “in particular” are used in this Agreement, they are deemed to have the words “without limitation” following them. Where the context permits, the words “other” and “otherwise” are illustrative and shall not limit the sense of the words preceding them.

- 1.9. Any obligation in this Agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.10. Reference to clauses and schedules are to the clauses and schedules of this Agreement.

## **2. Submitting update requests**

- 2.1. You agree to submit update requests in writing via email to [requests@tyree.domains](mailto:requests@tyree.domains), or through our online Support Portal.
- 2.2. When submitting a request via email, you agree for us to create an account on our Support Portal on your behalf, if one does not already exist. We will send you a password to access your Requests on the Support Portal.
- 2.3. Once a Request has been submitted, You should:
  - 2.3.1. allow for up to two (2) business days for the Request to be assigned to our staff, and
  - 2.3.2. allow for up to an additional two (2) business days for the Request to be actioned and the resulting Change Item(s) to be available for review in a UAT environment.
- 2.4. We may, at our sole discretion, advise that one or more Change Item(s) are not within scope of Covered Changes, whereby, we will
  - 2.4.1. offer to complete such Change Items at an additional cost, or
  - 2.4.2. offer alternative Change Items that would be considered within scope, or
  - 2.4.3. reject the Request, in whole or part, as set out in Section 2.5.
- 2.5. We reserve the right to reject any Request, should:
  - 2.5.1. the Request be deemed to not be within scope of the Covered Changes set out in this Agreement,
  - 2.5.2. the actioning of the Request will result in a violation of our General Terms, or relevant Service Terms,
  - 2.5.3. the actioning of the Request violates any laws,
  - 2.5.4. management under their sole discretion consider the Request to be unreasonable, inappropriate, or impossible to action.

## **3. Reviewing Change Items**

- 3.1. Once a Request has been actioned in full, or part, we will make the Change Item(s) available for You to review in a UAT environment.
- 3.2. Upon reviewing Change Items, You can:
  - 3.2.1. approve the Change Items, or
  - 3.2.2. request a Revision of one or more Change Items, where you have not already requested the maximum number of Revisions permitted, as set out in Section 3.3, or
  - 3.2.3. deny the Change Items, and discard the Request
- 3.3. We will provide You with two (2) opportunities to submit a Revision free of charge for each Request submitted. We will endeavour to fulfil the Revision under the same

Conditions listed in Section 2. Each additional Revision after the two (2) provided will be charged in fifteen (15) minute intervals at an hourly rate of \$65.00 AUD.

#### **4. Limitations of Requests**

- 4.1. A Request should:
  - 4.1.1. be small in nature, where we estimate the Request to take up to a total, and maximum of, thirty (30) minutes, and
  - 4.1.2. contain Change Item(s) that relate to:
    - 4.1.2.1. a Widget, or
    - 4.1.2.2. Core Element(s), or
    - 4.1.2.3. a Page Element, or
    - 4.1.2.4. a related group of Page Elements, or
    - 4.1.2.5. a Blog post, or
    - 4.1.2.6. Page Element(s) that We have advised to You, in writing, that we would modify, prior to the Request being submitted.
- 4.2. Unless agreed to in writing, a Request should not:
  - 4.2.1. include the modification of multiple Page Elements spanning over multiple web pages, unless:
  - 4.2.2. the Page Elements is, or are within, a Widget duplicated on multiple pages, or
  - 4.2.3. the Page Elements are Core Elements, or
  - 4.2.4. We have advised to You, in writing, that we would modify such Page Elements, prior to the Request being submitted.
  - 4.2.5. contain Change Item(s) that:
    - 4.2.5.1. would significantly alter the website layout;
    - 4.2.5.2. could cause immediate or future layout, usability, or performance issues;
    - 4.2.5.3. require custom development to be undertaken.

#### **5. Limitation of liability**

- 5.1. Our total liability arising out of or in connection with the Managed Service or these Conditions, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the Managed Service to you.
- 5.2. You expressly understand and agree that Tyree Domains, its affiliates, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

#### **6. Termination of Contract**

- 6.1. The Conditions will continue to apply until terminated by either You or by Tyree Domains as set out below.

- 6.2. If you want to terminate the Terms, you may do so by:
  - 6.2.1. not renewing the Managed Service prior to the end of the Subscription Period;
  - 6.2.2. providing Tyree Domains with 14 days' notice of your intention to terminate.
  - 6.2.3. Your notice should be sent, in writing, to Tyree Domains via email, via a ticket on the Support Portal, or via the 'Contact Us' form on our website.
- 6.3. Tyree Domains may at any time, terminate the Terms with you if:
  - 6.3.1. you do not renew the Subscription at the end of the Subscription Period;
  - 6.3.2. you have breached any provision of the Conditions or intend to breach any provision;
  - 6.3.3. Tyree Domains is required to do so by law;
  - 6.3.4. the provision of the Managed Service to you by Tyree Domains is, in the opinion of Tyree Domains, no longer commercially viable.
- 6.4. Subject to local applicable laws, Tyree Domains reserves the right to discontinue or cancel the Managed Service at any time and may suspend or deny, in its sole discretion, your access to all or any portion of the Managed Service or the Services without notice if you breach any provision of the Conditions or any applicable law or if your conduct impacts Our name or reputation or violates the rights of those of another party.

## **7. Indemnity**

- 7.1. You agree to indemnify Tyree Domains, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:
  - 7.1.1. all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with Your use of the Managed Service;
  - 7.1.2. any direct or indirect consequences of Us accepting and actioning any Requests submitted by You;
  - 7.1.3. any breach of the Terms.

If you have any questions or concerns regarding these terms, please reach out to us.