

# PAGE CREATE

## Terms of Use

### Welcome

Welcome to the Page Create website available at: [www.pagecreate.com.au](http://www.pagecreate.com.au) (**Site**). The Site is owned and operated by Page Create Pty Ltd (ACN 620 700 021) (**Page Create**).

Please read these terms and conditions (**Terms of Use**) carefully before using the Site or Documents. We reserve the right to modify or replace these Terms of Use at any time. It is your sole responsibility to periodically check these Terms of Use for any changes. If you do not agree with any of the changes to these Terms of Use, you should stop using the Site. Your continued use of the Site after any modification or replacement of these Terms of Use will be deemed as your acceptance of those modified or replacement Terms of Use.

### Access

Page Create licences you to access and use the Site for free on the terms contained in these Terms of Use. If you access or use this Site on behalf of another person, you confirm that you are authorised to agree to these Terms of Use on that person's behalf. If you disagree with these Terms of Use then you should not access or use the Site or use the Documents. You warrant and it is a condition of these Terms of Use that you have the full right, power and authority to enter into these Terms of Use.

### Licence

Subject to your compliance with these Terms of Use, Page Create hereby grants you a non-transferable, non-exclusive, revocable licence to access the Site to generate and use Documents free of charge in accordance with these Terms of Use. You are licensed to view, use, copy, modify, adapt or communicate any Documents available on the Site from time to time.

Except as may be allowed by any applicable law which is incapable of exclusion and to the extent expressly permitted under these Terms of Use, you must not:

- attempt to copy, modify, duplicate, create derivative works from, frame, link, mirror, republish, download, display, transmit, or

distribute all or any portion of the Site or the underlying computer program or programming, in source or object code format, in any form or media or by any means;

- attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software or Site;
- access all or any part of the Site or the Software to build a product or service which competes with the Site.

### Documents or content

Page Create does not provide legal services. Page Create is not a law firm and use of the Site or the Documents does not create a solicitor-client relationship between you and Page Create.

Page Create, the Site and the Documents are not designed or intended to constitute legal advice or to be a substitute for advice from a qualified legal professional in the relevant jurisdiction with the necessary expertise.

The Documents contained on or generated by the Site may not be appropriate or relevant to your specific circumstances or compliant with your local jurisdiction. We recommend you obtain legal advice from a qualified legal professional in the relevant jurisdiction with the necessary expertise before using a Document.

### Your responsibilities

- You are responsible for ensuring that you have the necessary hardware, software and network services necessary to access and use of the Site.
- You will comply with all laws applicable to you and your use of the Site or the Documents.
- You agree not to:
  - use the Site for unlawful purposes;
  - post anything on the Site which is illegal, inappropriate, profane, obscene, discriminatory or defamatory; and
  - use the Site or the Documents to disparage or adversely impact the reputation of Page Create, its Related Entities, Associated Entities, officers, employees, agents, sub-

contractors or licensors.

## Security

- You will implement and maintain safeguards and security measures consistent with Industry Best Practice in relation to the physical and electronic access to your hardware, software and network used to access the Site.
- You must use Industry Best Practice to prevent the introduction or dissemination of Harmful Code in Page Create Systems or prevent a Security Breach.
- To the extent you become aware of any Harmful Code or Security Breach that may affect the Site or Page Create Systems you must:
  - immediately notify Page Create and provide confirmation of all information that you have obtained concerning the Harmful Code or Security Breach; and
  - assist Page Create with any remedial action required to eliminate the Harmful Code and prevent its effects or to prevent the Security Breach or mitigate its effects.
- You agree to indemnify and keep indemnified Page Create, its officers, Associated Entities, agents, employees, sub-contractors, licensors and Related Entities (**Indemnified**) against all Loss suffered or incurred by the Indemnified in connection with the introduction of Harmful Code or a Security Breach caused by you.

## Intellectual Property

Page Create and its licensors own all proprietary and Intellectual Property Rights in the Site, the Software and the Documents. Except to the extent otherwise specified in these Terms of Use you acknowledge and agree that you have no rights, title or interest in the Site, the Software or the Documents which is on or is available from the Site, including without limitation text, trademarks, logos or graphic, photographic, audio, audio-visual and other material.

## Site exclusions

- Page Create will use reasonable endeavours to provide access to the Site at all reasonable times. Except as required by law, Page Create makes no warranty that the use or operation of the Site or Software or any aspect of the Site or Software, will be uninterrupted or error-free or that any defects or errors will be corrected, or that the Site is suitable for any particular purpose or has any performance, functionality or security features.
- To the extent permitted by law, Page Create excludes all warranties in relation to the Site

and Software including all terms implied by statute, general law or custom and disclaims all liability arising out of or consequent on any:

- computer virus, communications failure, internet access difficulties or malfunction in equipment or software affecting the Site or your access to the Site or any Documents or other content available on it;
  - delay in the operation of the Site or any of the information available through the Site;
  - disruption, unavailability or termination of access to the Site or any Documents or other content available on the Site.
- Page Create will not be liable for any loss or damage caused by any Harmful Code that may infect your computer equipment, computer programs, data or other proprietary material due to your use of the Site or the Documents.

## Limitation of liability and indemnity

### Limitation of liability

To the maximum extent permitted by law and subject to warranties that cannot be excluded as outlined below:

- the Site and Documents are provided on an “AS IS” and “AS AVAILABLE” basis and you access and use the Site and the Documents at your own risk;
- the Site and Documents are provided without warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose or non-infringement of Intellectual Property Rights;
- Page Create and its Related Entities, officers, agents, employees, subcontractors and licensors are not liable or responsible to you or any other person for any Loss incurred under or in connection with your access to and use of (or inability to access or use) the Site or the Documents, including:
  - the Site not functioning or being unavailable;
  - any errors or defects on the Site or in the Documents;
  - the Site or Documents being unavailable (in whole or in part);
  - any information or content contained in any Document or on the Site being inaccurate, incomplete or out-of-date; and
  - any exposure to Harmful Code or other forms of interference which may damage your computer system or expose you to fraud or security breach when you access or use the Site or Documents.

This exclusion applies regardless of whether the

liability or responsibility arises in contract, tort (including negligence), equity, breach of statutory duty, or otherwise.

### **Warranties that cannot be excluded**

If the supply of the Site, Software, or any Document under these Terms of Use is a supply of goods or services to a consumer as defined in the Australian Consumer Law (**ACL**), nothing contained in these Terms of Use excludes, restricts or modifies any condition, warranty, right or remedy which is conferred upon you pursuant to the ACL, provided that, to the extent the ACL permits Page Create to limit its liability for a breach of a condition or warranty implied by the ACL then Page Create's liability for such breach will be limited to:

- in the case of goods, the payment of the cost of replacing the goods or acquiring equivalent goods; or
- in the case of services, the payment of the cost of having the services supplied again or at the election of Page Create, the provision of the services again.

### **Liability cap**

Subject to the remainder of the limitation of liabilities and indemnities and the maximum extent permitted by law, Page Create's total liability to you, whether arising in contract, tort (including negligence) equity, breach of statutory duty, or otherwise for any Loss of any kind suffered or incurred by you arising under or in connection with these Terms of Use is limited in the aggregate to AU\$100.

### **Consequential losses**

Despite any other provision in these Terms of Use, Page Create is not liable to you for any indirect, special, incidental, exemplary or consequential loss, loss of revenue, loss of data, loss of use, loss of business opportunity, damage to reputation, loss of goodwill or loss of profit. Page Create is not liable for any damages claimed by you based on any third-party claim, including but not limited to any claim in negligence. In no event is Page Create liable for any damages caused by you or failure by you to perform your responsibilities.

### **Contribution**

Page Create's liability at law or otherwise is reduced to the extent to which any Loss is directly or indirectly attributable to or caused or contributed to by any act or omission of you.

### **Indemnity**

You indemnify Page Create, its Related Entities, officers, agents, employees, subcontractors and licensors against all Loss they suffer or incur as a direct or indirect result of:

- your failure to comply with these Terms of Use;

- your use of any Document, including any transaction you enter into using a Document; and
- in the case of legal service providers, any Document provided by you to your client, or advice provided by you to your client which is based on, or related to, a Document.

## **Confidentiality and Privacy Policy**

To use and access the Site you may need to provide Page Create with Personal Information (as defined in the *Privacy Act 1988* (Cth)).

Your Personal Information will be handled in accordance with our Privacy Policy accessible **here**.

Subject to this Confidentiality and Privacy Policy, we will keep Confidential Information you provide in using the Site confidential and will use reasonable endeavours to protect the Confidential Information from unauthorised disclosure. We will only use the Confidential Information you provide for the purposes of providing the Documents to you and not for any other purpose. The obligations in this Confidentiality and Privacy Policy do not apply to any information that:

- is generally available to the public (other than by reason of a breach of these Terms of Use; or
- comes to the knowledge of a party other than through a breach of this section or other than through a breach of confidentiality by any other person.

## **Suspension or termination**

Page Create may terminate these Terms of Use and terminate your access to the Site immediately, without prior notice or liability, for any reason whatsoever, including without limitation if you breach these Terms of Use.

All provisions of these Terms of Use which by their nature should survive termination will survive termination, including, without limitation, intellectual property ownership provisions, disclaimers, limitations of liability and indemnities.

We shall not be liable to you or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by us in connection with the Site.

If applicable law requires us to provide notice of termination, we may give prior or subsequent notice by posting it on the Site or by sending a communication to any address (email or otherwise) that we have for you in our records.

## **General**

### **No waiver**

Our failure to enforce any right or provision of

these Terms of Use will not be considered a waiver of those rights.

## Severance

If any provision of these Terms of Use is held to be invalid or unenforceable by a court, the remaining provisions of these Terms of Use will remain in effect.

## Entire agreement

These Terms of Use constitute the entire agreement between us regarding the Site and the Documents, and supersede and replace any prior communications or representations we might have between us regarding the Site and the Documents.

## Our relationship

Each party is an independent contractor and, unless these Terms of Use expressly provide otherwise, has no authority to bind or commit the other party. Unless these Terms of Use expressly provide otherwise, nothing in these Terms of Use create a relationship of partnership, of principal and agent or of trustee and beneficiary.

## Governing law

These Terms of Use shall be governed and construed in accordance with the laws of Tasmania, Australia, without regard to its conflict of law provisions.

## Contact us

If you have any questions about these Terms of Use or if you have any feedback, please contact us at [contact@pagecreate.com.au](mailto:contact@pagecreate.com.au).

## Definitions

Unless otherwise specified in these Terms of Use the following terms will have the following meanings in these Term of Use:

**Associated Entities** has the meaning given to that term in the *Corporations Act 2001* (Cth).

**Confidential Information** means all other information that is not generally available to the public at the time of disclosure other than because of a breach of these Terms of Use including confidential information about your business, structure, programmes, process, methods, operating procedure, activities, products, trade secrets, financial, accounting marketing and technical information, customer and supplier lists, ideas concepts, know-how in whatever form.

**Documents** means any document generated by using functionality on the Site or available on the Site from time to time.

**Harmful Code** means any computer program, trojan, virus or other trapdoor, easter egg or code which is not intended to serve a legitimate purpose

and which is harmful, destructive or disabling or which assists in or enables theft, alteration, denial of service, unauthorised access to or disclosure, destruction or corruption of information, data or software.

**Industry Best Practice** means the use of up-to-date and advanced techniques and methodologies having regard to any prevailing information technology standards and processes, techniques and methodologies used by other individuals, companies or organisations substantially similar to you.

**Intellectual Property Rights** means all present and future intellectual and industrial property rights conferred by statute, at civil, common law or in equity and wherever existing, including:

- patents, designs, copyright, rights in circuit layouts, database rights, trade marks, know how, brand names, domain names, inventions, product names, trade secrets and any other rights subsisting in the results of the intellectual effort in any field, whether or not registered or capable of registration;
- any application or right to apply for registration of any of the rights in the paragraph above;
- any registration of any of those rights or any registration of any application referred to above; and
- all renewals and extensions of these rights.

**Loss** means a loss, damage, liability, charge, expense, cost, fine, penalty, outgoing (including all legal and other professional costs on a full indemnity basis) of any nature or kind, howsoever arising, whether present, unascertained, immediate, future or contingent.

**Page Create Systems** means:

- any applications, software, services, network connections or communications used by Page Create; and
- hardware, equipment, components, routers, instruments or accessories owned or used by Page Create.

**Related Entity** has the meaning given to that term in the *Corporations Act 2001* (Cth).

**Security Breach** means any loss or corruption of data available on or via the Page Create Systems or any unauthorised access to or use of the Page Create Systems.

**Software** means any computer program or programming in source or object code format (including shrink-wrap software, collaborative applications, microcode, shareware and firmware interfaces, data files, set-up files and procedures) which is owned or licensed by Page Create to provide the Site or Documents.

Last updated in November 2019.