



Flume

Remarkable transformation

Terms of Business

Effective August 20th 2021

Working with Flume – and making it work for you

At Flume, we take great pride in helping businesses like yours achieve success. But along the way we abide by the following terms (unless otherwise agreed in writing of course) to make sure everything is clear and transparent.

There's no need to sign these terms in order to accept them. Continuing an on-going, successful working relationship with us means you have given them your seal of approval.

By definition

"We", "us" or "Flume" means Flume Limited.

"You", "your" or "The Client" means the party commissioning the services.

"services" means the services that Flume is responsible for as set out in our proposal, statement of work or itemised quotation, the details of which will be agreed with you prior to us starting work for you.

"Final visual product" means the finished deliverable of our services, whether it be a website, designs, or strategy documentation.

Our promise

At Flume, this is how we work –

- Our qualified staff have the right skills and use the care and diligence necessary to deliver the services to meet good industry standards
- Everything we do is designed to help you reach your goals, beginning with us sitting down with you to better understand them, then devising a way they can be achieved in the simplest, quickest, most beneficial way.
- We keep you updated on progress and when the work is to be delivered.
- At all times we protect your privacy and maintain appropriate levels of security for your data and information.
- We treat you fairly, honestly, respectfully and without discrimination.
- Finally, our fees are fair and reasonable based on the services required, and we will clearly communicate with you how and when you will be billed.

Helping us help you

As a Flume Client, we'll need certain information from you. By providing this information, you confirm that you are entitled to use it and are responsible for its accuracy and validity.

Along the way we'll need you to make decisions and give approvals, supply information and materials reasonably required by Flume to perform the services. This needs to be within the agreed timeframe as any delays may jeopardise delivery and therefore the deadline we agreed with you.

Finally, if there are any delays on your part – you must advise us as soon as possible. We'll do everything we can to work with you, but delays can make it difficult or impossible to re-schedule your work. If a delay means that the people working on your services cannot be re-deployed onto another project, Flume reserves the right to charge for part or all of the time booked.



Getting it right – approval of services

If we don't get it absolutely right and you're not happy, please contact us within 5 working days so we can swiftly resolve any issues. If the additional work still doesn't meet with your approval and isn't outlined in the agreed services, our time spent to get a resolution may incur additional costs.

Saying goodbye – termination of services

No one is locked in. You can suspend all or part of the services we provide at any time by providing 4 weeks' written notice to us. Equally, we may terminate the services to you by providing 4 weeks' written notice at any time.

Upon the termination of services, all amounts owed by you shall become immediately due and payable. You agree to pay for all services rendered up until the date of notification of the termination of services.

If a project is left on pause by the Client and Flume has not been able to do work on the project for a period of 8 weeks or more, this will incur extra charges to pick up the job again. This charge is to recap where the job was left and re-brief the team.

Saying goodbye – erasing files and documents

You authorise us (without further reference to you) to destroy all files and documents other than those we hold in safe custody for you, 1 month after our engagement ends, or earlier if we have converted those files and documents to an electronic format and supplied them to you.



The Financial details

How and what we charge

Unless agreed otherwise our rates are based on a range of factors: time, expertise, importance, urgency and results achieved. Details of our charges are available at any time. There may also be disbursements and expenses incurred on your behalf, which will be itemised separately, and where possible we will notify you if any fees or disbursements need to be paid for in advance.

Quotes & fees

We base our fees on the information provided by you, the Client, at the time of quoting work. Any subsequent work that falls outside that scope or changes in your instructions may incur extra charges.

Where our fees are calculated on an hourly basis, the hourly rates are set out in a quotation/invoice. The difference in those rates merely reflects the experience and specialisation of our professional staff.

Any material that must be unexpectedly collected or created by us in order to complete the work (and was not included in our original scope of services) may incur extra charges at our current rates.

Estimates can change

Using our best judgment and experience we estimate the work involved on every project. However, estimates are just a guide. Naturally, we'll communicate with you as soon as we are aware of any significant changes to our estimates, and then work with you to understand why the estimate was inaccurate and plan a course of action based on your input and approval. However, all incurred hours relating to the services delivered will be billed accordingly.

Disbursements and expenses

At times, we incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice when the expense is incurred. For some disbursements and expenses, we may require an advance payment.

Is GST excluded?

All quotations, estimations and fees will **exclude** GST. If GST is payable by you on our fees, it will be added to our invoices in addition to our agreed fees.

Deposits and pre-payments

We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. If you have paid a deposit you authorise us to debit our invoices against the amounts prepaid by you.



Invoices

Payment of invoices is due within 7 days of the date of issue, or as per the due date on our invoice. Invoices will be issued on a monthly basis for the work completed to date.

Invoices that are unpaid

To protect our business, overdue invoices may incur interest on the overdue amount at 1.5% per month, compounding monthly. We may also charge costs (including collection and legal costs) and suspend the performance of further services until payment is made.

Disputes over invoices

In the unlikely event there is a dispute, please notify us in writing within 5 calendar days from the date you first received the invoice. We're sure we can work it out. You will need to identify the specific cause of the disagreement and pay that portion of the invoice which is not in dispute when due.

We may suspend the services including hosting of your website until payment is made. If you're unable to make payment for any reason, please contact us as soon as possible to discuss the problem. For any invoice queries or disputes, please notify accounts@flume.nz.



Website services

Hosting your site

As is customary, hosting is charged annually in advance for the 12-month period from the date of invoice.

Hosting your own website is fine. However, if we do not host your website, we reserve the right not to offer support for bug fixes in the warranty period, nor support the code of the site. We also reserve the right to charge an access fee when we are engaged to complete work on your website – this fee covers any additional time spent to work with your server.

Hosting fees are non-refundable and are renewed automatically yearly. If you'd like to cancel your hosting services, just give us 4 weeks written notice.

If you transfer your services to another provider, please provide written email confirmation from them, or you, advising us that the transfer is complete. Naturally we will not terminate your services prior to this final notification.

Please note: cancelling your hosting account removes your website's files from our servers. Be sure that you have copies of any files you want to keep before you cancel your account with us.

All about domain name registrations & renewals

At Flume, we register and hold domains on behalf of many clients. As part of our service to you, we renew these before their expiry date. You'll be invoiced each year for this, but if you'd like to halt this service, we need to be notified at least 4 weeks before the expiry date.

If you'd like to cancel your domain services, we also need written confirmation from you. Once we receive this request, we'll supply the domain transfer key (UDAI) – please note some charges may apply for this. Domain name fees are non-refundable.

Important: cancelling your domain may remove your website from being in a 'live' state. Be sure that you have copies of any files you want to keep before you cancel your account with us.

Updating code

Occasionally we do updates or development work on websites, which involves updating the framework, code and/or plugins to the latest versions. We'll advise you if this is required and if additional costs apply.

Your content management system (CMS)

A CMS is not indestructible. Just be aware that the CMS of your website allows you to manage simple content and image updates. It's not a total solution for updating 100% of the website's content. Importantly, some areas are complex and if tinkered with can cause major issues with the look or performance of your website. Please only update areas you're familiar with, or that we've trained you to use.

If an issue arises with your website as a result of your content management, a charge may apply to fix it.



Maintaining the site

The site framework and plugins used within your website require on-going updates, which aren't included in the original website build price. We recommend these updates are applied on a monthly basis, which is included as a service in our Maintenance Programme – see below. If you don't have a Maintenance Programme in place with us, upgrades should be completed at least every 12 months. Please don't attempt to make these updates – errors can be expensive to fix!

Our Maintenance programme service

To protect your digital assets, we can't recommend this enough: do proactive maintenance!

Our maintenance programme includes a monthly service to cover security patches, framework updates and updates released by the various service providers that control your website.

These tasks follow our standard maintenance checklist, ranked in order of importance. This service has a monthly allocation of time (hours) which we spend working through as much of our maintenance programme tasks as we're able, until it is completed, or the time is used up – whichever comes first.

At the end of each month, a report outlining this work is sent to the Client.

The labour included in this service is not able to be allocated for specific tasks or initiatives by the Client.

During our maintenance programme, we also install uptime and performance monitoring software on your website, which allows us to be informed of any issues that need fixing.

We also supply staging infrastructure and deploy proposed changes to this environment for your approval, before they 'go live' on your website.

The terms of your business' unique maintenance programme will be agreed and outlined in an Ongoing Services Agreement (OSA).

The key to on-going services

Your website goes live! Fantastic! From now on we are able to provide on-going support for bug fixes and more complex projects. All work will be scoped and estimated based on the time, cost and difficulty and will be agreed with you before commencing. Time spent scoping such work will be charged to the Client.

Occasionally, particularly where the request is of a time-sensitive nature, it might be more cost effective to do the work without scoping. If we think this is a more suitable approach, we'll let you know.

With any estimate, we will also give you an indication of when the work can be completed based on our other commitments and schedule of work. We will undertake to hold time within our schedule for your work, but until such time as the project has been approved to proceed, any timings given are indicative only.



Our premium service

Need a faster level of service and delivery of your requests? We offer Retainers with Service Level Agreements (SLA), where we plan time within our schedule to service and deliver your requests, guaranteeing response and resolution times. Here's how it works:

- We agree an appropriate quarterly budget based on your needs, which includes a quarterly allocation of time (hours) that will be earmarked for you. Your budget will be evenly allocated across each month within the quarter, plus we ensure that your retainer budget is used wisely, so you get the most out of your investment.
- If your retainer commences part way through a quarter, your quarterly allocation of hours will be distributed on a pro-rata basis.
- To allow us to meet our SLA, no more than 60% of your retainer budget can be allocated to specific tasks or initiatives within the first two weeks of the month. This ensures that a portion of your bookable time is reserved to cover general project management of your retainer, and more importantly, is available if an emergency arises. If this reserved time is not used up, it will be available for assigning to specific tasks or initiatives near the end of the month, as advised by Flume.

If you require more work to be done in the month than the retainer budget allows, you may advance budget from the following month at Flume's discretion, provided it is within the same quarterly period.

Retainers are charged monthly to the total of the agreed budget across the quarter. If the total hours included in the retainer are not utilised during the 3-month period, they cannot be postponed for use in later months.

The terms of your business' unique retainer programme will be agreed and outlined in an Ongoing Services Agreement (OSA).



Safety first – confidentiality and intellectual property (IP)

Confidentiality

It almost goes without saying, but while working with you we will hold in confidence all information you share with us concerning you or your affairs. As much as practicable, any confidential information will be made available only to those working on your business.

Without your consent, Flume shall not use the information or any other property provided by you, except for the purposes of providing the services.

Both Flume and the Client agree that all information disclosed to each other in relation to the contents of this Agreement shall be confidential and won't be disclosed to a third party without prior consent.

Intellectual property

On completion of the services and payment in full by you, we will transfer the intellectual property (IP) for all final visual product prepared by Flume to you. Examples of this include a website (or specific functionality within a website), strategy, logos or design visuals.

Ownership of the final visual product won't pass to the Client until Flume receives payment in full. The Client grants Flume a perpetual royalty free licence to use the final visual product pertaining to the services for our marketing and promotional purposes.

Any concepts not accepted by the Client remain the property of Flume.

Software, source code and working files

Please be aware that ownership of the source code or working files used to deliver the services does not pass to the Client, but remains the property of Flume at all times.

Flume grants the Client a perpetual royalty free licence to use Flume's software in order to run and power the final visual product pertaining to the services only. The Client agrees not to use Flume's software for any other purpose without Flume's prior written consent and agreement.

Logins

To deliver on the agreed services we may need access to your website, social media profiles and any other relevant platform. The access to these accounts will only be used for the purposes of delivering the services.

Limitation of liability

Flume will notify you when all Services have been completed. At this time, Flume will provide you with the final visual product and notify you by email of the completion date.

The Client acknowledges that once you've received notification by email of the completion date, you have 30 days (time being of the essence) to notify Flume of any faults in the final visual product. Flume will remedy any faults that are notified to it within that time.

Flume is not liable for any losses of any kind or any delay in Services which are caused in whole or in part by circumstances beyond its reasonable control or caused by the Client.



Except as expressly set out in these terms, Flume shall not be liable for any costs, loss of data, indirect or consequential loss, loss of contracts, loss of profits or damage caused by Flume or its subcontractors.

The Client agrees to indemnify Flume from all actions, proceedings, costs (including but not limited to the actual costs incurred including costs on an indemnity basis), claims, demands, any losses and/or damages suffered as a result of the breach of this Agreement by the Client and/or any action taken by the Client's customer(s) or other supplier(s).

In the event of any dispute relating to the service or these terms arising between the Flume and the Client, resolution of the matter will be attempted by negotiation or mediation. Both Flume and the Client agree to endeavour to achieve resolution by adopting such informal dispute resolution techniques.

If any provision of these terms shall be held to be invalid for any reason, such invalidity shall not affect the validity or operation of any other provision of these terms. Failure by us to enforce any of these terms will not be deemed to be a waiver of any of our rights or obligations under these terms.

When things change

Every once in a while, we may need to change some of our terms of engagement. If so we will publish the changed terms on our website.

Not happy with our terms of engagement?

If anything here is unclear, or you'd like to change the terms, we'll need to be notified ahead of starting work.

If your request for alteration is agreed by us, the variation must be recorded in writing and signed by both parties.

