Terms and Conditions of Trade

1. Acceptance of Terms

By accepting our Quote, the Customer named in the Schedule ("vou") agrees to be bound by the following terms of use between you and Brand Hero Pty Ltd As Trustee for the Edwards Family Trust trading as Brand Hero ABN 74 353 886 641 ("we", "us").

2.1 Commencement and Duration

This agreement commences from the date that we confirm that we have accepted your order, and continues until completion of the Services, or until terminated under these terms

3. Services

3.1 Services

We will provide the Services specified in the Schedule in accordance with this agreement.

3.2 Performance

Unless otherwise specified in the Scope of Services, we agree to provide the Services to the standards specified in the Scope of Services in a timely manner 3.3 Service Limitations

We will use reasonable efforts in providing the Services, however other than as set out in the Scope of Services and this agreement, to the fullest extent permitted at law:

(a) Defects and Interruptions: we do not warrant or guarantee the Services or Deliverables are uninterrupted or error free, and we do not take any responsibility for defects or interruptions to the Services or Deliverables caused by:

(i) misuse or user error:

- (ii) variation or modification to the Deliverables by you or any third party;
- (iii) your software, equipment, or network:
- (iv) the delays, action or inaction of any third party;
- (v) the delays, action, operation, inaction, or failure of any third party service, software, or equipment; or
- (vi) any Force Majeure Event;
- (b) Fitness for Purpose; we do not warrant or guarantee the Services or Deliverables for fitness of purpose, performance, or compatibility;
- (c) Business Activity: we do not represent or warrant that you will achieve any particular result from the Services or Deliverables in terms of increased activity. search engine ranking, or revenue;
- (d) Backup and Disaster Recovery: we are not responsible for any backup or disaster recovery services, including for any Deliverables and any hosting services we provide;
- (e) Supported Browsers and Operating Systems: where we provide website design services under this agreement, we will design for current released browser and operating system versions only. However, we do not guarantee the provided website will display correctly on all browsers on all devices (but will in any event build the website to be responsive). For clarity's sake, 'current' means current as at the date this agreement began under clause 2.1;
- (f) Security: we will take reasonable precautions in providing the Services, but we are not responsible for any security breach or related loss associated with any Services:
- (g) Integration; we do not guarantee or represent that the Deliverables will integrate with any particular third party hardware, software, or environment;
- (h) Legal Review: you are responsible for ensuring that any Deliverables comply with applicable laws and advertising standards. Where we provide logo design or brand identity services, we cannot guarantee that our designs are eligible for trade mark protection; and
- (i) Specific Exclusions: we provide no services in relation to the Specific Exclusions under this agreement;
- 3.4 Variations to the Scope of Services
- (a) You may request changes to the Scope of Services and we will:
- (i) make reasonable efforts to accommodate your request, but are not obliged to accept the changes; and
- (ii) advise you of any additional costs and timetabling for implementing the
- (b) If you accept the additional costs and timetabling for implementing your requested changes, we will invoice you for the additional costs, payable prior to delivery unless you have previously been approved by us for trading terms.
- (c) This agreement will then continue to apply to the Services as amended. (d) If we anticipate that your requested changes will result in less than 4 hours of additional work, we may with your agreement treat the additional work as Out-
- of-Scope Services. 3.5 Out-of-Scope Services
- (a) We may at our discretion, upon request by you, provide Out-of-Scope Services. For clarity's sake, this expressly includes any meetings and any rounds of amendments requested in addition to those set out in the Scope of Services. (b) The same standards, warranties and indemnities apply to Out-of-Scope Services as apply to the Services.
- (c) We will charge the Out-of-Scope Fee for any Out-of-Scope Services we provide.
- (d) We may vary the Out-of-Scope Fee at any time, by 30 days' Written Notice. Any change will apply only to Out-of-Scope Services requested and performed after the effective date of the change.
- 3.6 Urgent or out of hours Services
- (a) We reserve our right to charge a Rush Fee for Services which:
- (i) you request to be performed urgently; or
- (ii) you request to be performed outside Business Hours.
- (b) We may vary the Rush Fee at any time, by 30 days' Written Notice. Any change will apply only to urgent or out of hours Services requested and performed after the effective date of the change.
- 3.7 Changes to Services

Technology and business environments are constantly evolving and we may make adjustments to the Services to ensure you continue to receive the best possible results. However, we will give you reasonable notice of any changes, and ensure that the replacement services are of the same high standards as the original.

3.8 Right to sub-contract

We may appoint employees or agents to provide all or part of the Services, and such entities are bound by the same obligations as us. It is our responsibility to ensure such entities comply with this agreement.

3.9 Warranties

We warrant that we and every person who provides the Services on our behalf is competent and has the necessary skills, qualifications, permits and licences to provide the Services.

4. Printing Services

4.1 In addition to the other terms and conditions set out in this agreement, this clause 4 applies only in relation to Print Deliverables

- 4.2 If we have provided you with a quote for printing services, as set out in the Schedule, the quote will specify:
- (a) the work required to be done; and
- (b) an Estimate of the charge for the work
- 4.3 We reserve the right to amend the Estimate, before the work has commenced, to take into account any rise or fall in the cost of performing the work under the quote and we will notify you of any such amendment as soon as practical. On your acceptance, which can be written or verbal, of the amended quote, the amended quote is deemed to be the Estimate for purposes of the Schedule. 4.4 You acknowledge that:
- (a) whilst we will use our best efforts to produce the exact number of items as described in the Scope of Services, owing to human or computer error the num-ber of items actually produced may be 10% over or under the number specified in the Scope of Services; and
- (b) in circumstances where we produce less than the amount agreed in the Scope of Services, we may adjust the amount charged to you on a pro rata basis to reflect the actual number of items produced.

5. Delivery, Risk and Acceptance

- 5.1 Delivery
- (a) Unless expressly stated in the Scope of Services, delivery dates are a guide only and we do not guarantee any fixed deadlines for the delivery of Services or Deliverables (but will in any event provide the Services and Deliverables in a timely manner).
- (b) We are not responsible for delays caused by:
- (i) your delay in providing us with instructions, access, or Client Materials necessary to undertake the Services;
- (ii) the delays, action or inaction of any third party (including your contractors);
- (iii) the delays, action, operation, inaction, or failure of any third party service, software, or equipment:
- (iv) changes in the Scope of Services (whether requested by you, or required to cater for changes in technology or other circumstances)
- (v) any Force Maieure Event; or
- (vi) us exercising our rights under clause Error! Reference source not found.,
- and if any of these events cause a delay, we may, by Written Notice to you, extend the delivery date by the same length of time or any greater period as we deem reasonably necessary.
- 5.2 Acceptance of Print Deliverables
- (a) This clause 5.2 applies only to Print Deliverables.
- (b) If we provide you with a proof of the Print Deliverable, we will not be responsible for any errors in the Print Deliverable which appeared in the proof and which were not corrected by you before you approved the proof.
- (c) A proof will be approved if you:
- (i) confirm the approval in writing, including by email; or (ii) on our online acceptance form.
- (d) The cost of any additions, alterations or corrections to the proof, after the proof has been approved will be treated as Out-of-Scope Services.
- 5.3 Rejection of Print Deliverables
- (a) Subject to clause 5.2, you may reject the Print Deliverables if you reasonably determine that they are not to the standards specified in the Scope of Services
- (b) If you wish to reject the Print Deliverables, you must notify us of the rejection
- (i) within 7 days of delivery; or
- (ii) within 7 days of notification that the Print Deliverables are ready for collection. 5.4 Delivery of Print Deliverables
- (a) We will notify you when the Print Deliverables are ready for collection.
- (b) Subject to clause 5.4(c), you must collect the Print Deliverables from our premises, within 7 days of the notification in clause 5.4(a).
- (c) If we have agreed to arrange for delivery of the Print Deliverables, you are liable for all freight or other postage costs of such delivery.
- 5.5 Risk of Print Deliverables
- (a) The risk in the Print Deliverables passes to you:
- (i) if we deliver the Print Deliverables to you, at the time of delivery; or (ii) otherwise, at the time we notify you that the Print Deliverables are ready for collection in accordance with clause 5.4(a).
- (b) If you elect to reject the Print Deliverables in accordance with clause 5.3. risk reverts to us when:
- (i) you notify us that the Print Deliverables are rejected; and
- (ii) if the Print Deliverables are in your possession, we receive those Print De-
- (c) We are not liable for insurance, loss or damage to any Print Deliverables incurred while being delivered, in transit or which have been left at our premises. (d) If you leave your property, including the Print Deliverables, at our premises for 6 months or more, we may retain or sell the property or Deliverables and retain the proceeds of sale as compensation for holding and handling of the property or Deliverables.
- 5.6 Acceptance of Digital Deliverables
- (a) The following applies to any Deliverable which is a Digital Deliverable:
- (i) upon delivery of a Digital Deliverable (whether at a particular stage of completion or upon final completion), it is your responsibility to review and test the Digital Deliverable to confirm they fulfil the Scope of Services and meet your specified requirements.
- (ii) you may give us Written Notice within 14 days of delivery if you reasonably consider that the Digital Deliverable contains a Defect, clearly identifying the ways in which it does not meet the agreed Scope of Services. We will then correct the identified Defects to meet the agreed specifications, and re-present the Deliverable to you for acceptance within 14 days (or other period agreed between the parties).
- (iii) the parties will repeat the process in clauses 5.6(a)(i) to 5.6(a)(ii) until the Deliverable meets the agreed specifications.
- (iv) the Deliverable is deemed to be accepted if you confirm that you accept the Deliverable, or if we do not receive a Written Notice under clause 5.6(a) (ii) within 14 days.
- (v) the parties acknowledge that delayed acceptance of a Deliverable will impact upon the delivery timeframe of all future Deliverables. As such, deadlines for all Deliverables will be extended by the same duration as final acceptance is delayed.
- (b) Any changes you request to any part or stage of a Digital Deliverable once that part or stage has been deemed accepted (including changes to content) will be treated as Out-of-Scope Services, and we reserve the right to charge the Out-of-Scope Fee to those services.

6. Your Rights and Obligations

6.1 Instructions, equipment and materials

(a) supply clear instructions regarding the scope and specifications of the Ser-

- vices, and respond to any questions about the scope and specifications of the Services promptly and clearly:
- (b) respond in a timely manner if we bring an issue to your attention in relation to your software, equipment, data or network that affects the operation of the Services:
- (c) provide all Client Materials, equipment, data or information necessary to provide the Services and specified in the Scope of Services or as agreed between the parties from time to time;
- (d) keep us informed of any information or event relevant to the Services, including, but not limited to, details of any changes to key personnel, access codes or any equipment or software;
- (e) provide us with unique administrator level login details and passwords, and remote access to your network so that we can carry out the Services. If you are unable to provide us with unique administrator level login details and pass
- the parties will negotiate an alternative arrangement;
 (f) provide us on request with copies of all necessary software licences, licence keys and original media, to enable us to carry out the Services; and
- (g) not do anything to damage our good standing, integrity, or reputation. Any disputes must be handled in accordance with clause 13.
- 6.2 Access authority

Where we require access to the Site or any location under your direction or control (for example, installing a building sign on a premises) to perform the Services, or to exercise any other rights under this agreement, you must provide or arrange:

(a) access and a safe working environment in compliance with all occupational health and safety laws; and

- (b) for our employees or contractors to have adequate workspace, light, ventilation, electric current and outlets, internet and long distance telephone access as necessary when at the Site.
- 6.3 Warranties
- (a) You warrant and undertake that:
- (i) you and your representatives have all necessary licences and legal right(s) to permit and authorise us to provide the Services.
- (ii) providing the Services in accordance with your directions will not contravene applicable laws including the Copyright Act 1968 (Cth), Trade Marks Act 1995 (Cth) and Competition and Consumer Act 2010 (Cth).
- (iii) You are authorised to grant the licence in clause 9.1(b).
- (iv) you and all of your employees and contractors maintain prudent and comprehensive insurance policies.
- (b) You must provide adequate assurances of these warranties, including providing copies of any licences or insurance policies under clauses 6.1 and 6.3 upon request.
- 7. Payments
- 7.1 Payments
- (a) You must pay the Upfront Fee (if any) in advance. We will issue an invoice for the Upfront Fee upon you signing this agreement. We will not order any materials from our suppliers until we have received the Upfront Fee in cleared funds. (b) You must pay us the Fees as set out in the Schedule. We will issue an invoice for the Fees.
- (c) In addition to the Fees above, we will issue a separate invoice for
- (i) any fees for Out-of-Scope Services requested and performed under clause 3.5, payable fortnightly in arrears or otherwise as agreed.
- (ii) any expenses we incur on your behalf in the course of performing the Services, as specified in the Schedule: (iii) any travel time at our Travel Rate if we are required to travel to a site; and
- (iv) any pre-approved expenses if we are required to travel to a site more than 100 km from our offices, including travel time at current daily rates, and all travel expenses including flights, accommodation and meals (excluding alcohol) at
- cost. 7.2 Additional Fees for Printing Services
- (a) In addition to the Estimate, we may charge:
- (i) fees for any preliminary work performed at your request;
- (ii) fees for additional work required to be done as a result of you changing your
- (iii) fees for having to work from a poor copy:
- (iv) fees for work which involves tables or a foreign language and which was not notified to us when we prepared the Quote;
- (v) fees for additional work required to be done as a result of the author's corrections, including repagination or reformatting;
- (vi) fees for handling or storing material or equipment supplied by you for the purposes of carrying out the work: (vii) fees for changing or correcting any plates, film, bromides, artwork or any document including computer files supplied for the purposes of producing the
- Print Deliverables:
- (viii) freight costs and charges; and (ix) other charges, fees or expenses referred to in this agreement and not spec-
- ified in this clause.
- 7.3 Further payment provisions
- (a) Unless otherwise stated, each tax invoice: (i) is payable 7 days from the date of the tax invoice;
- (ii) may be sent by post or email.
- (b) You are responsible for and must reimburse us for any transaction, processing, dishonour or charge-back fees issued by a financial institution or payment gateway in the course of making payment.
- 7.4 Fee disputes
- (a) If you reasonably believe that an invoice contains an error, and you wish to
- dispute an invoice, you must: (i) notify us before the due date of the invoice;
- (ii) pay all undisputed fees on the invoice; and
- (iii) provide detailed information about any disputed fees. (b) We will not suspend or terminate any Services for non-payment of the disputed fees while the dispute is being investigated.
- (c) Our records are prima facie evidence of fees owing and paid.
 - 7.5 Default in payment
- If you fail to pay any invoice by the due date, then without prejudice to our other rights or remedies, until payment is made in full (including for any accrued
- (a) we may immediately suspend work of any or all Services and provide you with a Notice of Default;
- (b) title and property in all Print Deliverables will not pass from us to you;
- (c) no licence or assignment of Intellectual Property is effected under clause 9; (d) we retain a lien over all equipment, materials, Deliverables, data and work
- in progress, including those owned by you in our possession and control; and
- (e) you are liable by way of liquidated damages for all amounts payable under

this clause plus all costs of debt collection and enforcement, including legal fees on a solicitor and own client basis.

We reserve the right to pass on any fee increases imposed by third party sup-pliers or service providers (including varying exchange rates). We will provide notice of any such increase as soon as practicable.

8. Confidentiality

(a) Each party acknowledges that in the course of performing its obligations under this agreement, it may receive Confidential Information which is proprietary and confidential to the other party.

(b) Each party agrees not to use or disclose Confidential Information of the other party. However, a party may disclose Confidential Information of the other party to its officers, employees or contractors bound by the same confidentiality obligation, and only to the extent necessary for the party to carry out its obligations under this agreement, or as otherwise required by law.
(c) At the request of a party, the other party must return or destroy all Confidential

Information in its possession or control.

9. Intellectual Property

9.1 Client Materials

(a) You (or where applicable, any third party owner) retain ownership of all relevant Intellectual Property rights in the Client Materials and such rights are not assigned or transferred to us.

(b) You grant us (and our employees, contractors and agents, as applicable) an irrevocable, royalty-free, perpetual licence to use, copy, modify and adapt any Intellectual Property in the Client Materials as reasonably necessary to provide the Services.

9.2 Licence to test

For the duration of this agreement and subject to its terms, we grant you a royalty-free, non-exclusive licence to use any Intellectual Property in any Deliverables we provide only as necessary for you to test the Deliverables from time to time. 9.3 Third party materials

(a) We may incorporate third party materials as necessary to provide the Services. Use of third party materials may be subject to creative commons or open source licensing terms, or such third party licensing terms as notified by us to you and may not be on the same terms as those set out in clause 9.4.

(b) You acknowledge and agree that it is your responsibility to maintain any licences for third party materials after completion of the Services. We will provide you with any information in our possession or control to assist you to facilitate

9.4 Ownership of Intellectual Property The parties agree that:

(a) all Intellectual Property rights in material owned by you or your providers belong to you;
(b) all intellectual Property rights in:

(i) material developed by us under this agreement; and

(ii) any improvements, modifications or enhancements to any material developed by us in the course of providing the Services,

will, on receipt of full payment for the corresponding Services and Deliverables, belong to you. We further agree that this agreement does not give us any licence to use this Intellectual Property except to carry out the Services

(c) Unless otherwise agreed, each party retains ownership of all material owned or created by that party independently of this agreement, and no Intellectual Property is assigned or transferred by way of this agreement.

9.5 Licence

(a) Upon receipt of full payment for the Services, we grant you a non-exclusive, perpetual, royalty-free licence to use our Intellectual Property to the extent that it is incorporated as part of the Services and Deliverables under this agreement. (b) The licence granted under clause 9.5(a):

(i) may not be sub-licensed except as reasonably necessary for you to maintain any Deliverables; and

(ii) is not transferable without our written consent

9.6 Publicity rights

Subject to your ongoing right of revocation by 30 days' Written Notice, you grant us, and our contractors and agents, a non-exclusive licence to:

(a) use your logo, trade marks and other branding rights to advertise or promote the Services; and

(b) display, link to, or promote your business as part of our portfolio. 10. Indemnity and Limitation of Liability

10.1 Responsibility for own actions

Each party agrees to release and hold harmless, indemnify and defend the other party and its Indemnified Officers against any Claim or Liability from or

(a) its own negligence or malpractice, or reckless or intentional misconduct, and (b) its own failure to perform its obligations and responsibilities under this agree-

10.2 Client indemnity

(a) You agree to release and hold harmless, indemnify and defend us and our Indemnified Officers against any Claim or Liability arising from or in relation to: (i) any service limitations specified in clause 3.3:

(ii) any Defect in a Deliverable which you should reasonably; have identified in line with your obligations under clause 5.6;

(iii) third party materials incorporated in any Deliverable once accepted by you

(iv) third parties, such as hosting service providers;

(v) any loss or damage to persons or property (including data) caused by the use of the Services or Deliverables by you or anyone whom you allow to access the Services:

(vi) our reasonable actions in denying anyone access to any Deliverables, including for security reasons or non-payment;

(vii) any cause independent of human control that occurred after the Services were supplied or Deliverables delivered,

whether directly or indirectly arising in connection with the Services or Deliverables, even if we knew or should have known about the possibility of such loss and damage.

(b) You indemnify us for any reasonable legal expenses we incur as a result of your breach of this agreement, including expenses for enforcing payment, on a solicitor and own client basis.

10.3 Limitation of Liability

To the fullest extent allowable at law:

(a) Indirect, special, pure economic or Consequential Loss (whether arising under contract or tort) are expressly excluded under this agreement.

(b) All Services are provided under this agreement on an 'as is' basis and all warranties that may be implied by law or statute (other than those set out in this agreement) are excluded.

(c) Our Liability, and Liability of our Indemnified Officers under this agreement is limited to (at our election) to:

(i) supplying the services again; or

(ii) payment of the cost of having the services supplied again; or

(iii) a refund of the amount you paid us for those services;

(d) Our total Liability and the total Liability of our Indemnified Officers in connection with this agreement whether under contract or tort, will not exceed \$1000 in any circumstances.

11. Suspension and Termination

11.1 Your default and suspension

(a) We may suspend the Services at any time and give you a Notice of Default if: (i) you fail to make any payment when due, or any payment is dishonoured or subject to chargeback, subject to clause 7;

(ii) you fail to comply with your obligations under clause 6;

(iii) we have reason to suspect illegal or unethical activity is taking place on your network: or

(iv) in our reasonable opinion your data, network, software or equipment may be causing damage to any person or property.
(b) Suspension of Services under this clause:

(i) does not affect your liability to make payment; and

(ii) will immediately end when the issue giving rise to the suspension is remedied.

(a) Either party may end this agreement immediately by Written Notice if the other party:

(i) fails to remedy a Notice of Default; or

(ii) experiences an Insolvency Event.

(b) Either party may end this agreement at any time and without prior notice if the other party is guilty of dishonesty, serious misconduct or serious neglect of duty. 11.3 Consequences of termination

(a) If this agreement ends for any reason, then in addition to any other rights

(i) we may issue an invoice for other work not previously invoiced; and

(ii) you must pay all of our outstanding invoices whether or not due.

(b) If you terminate this agreement under clause 11.1, then in addition to any other rights you may have: (i) we must immediately upon termination return to you all equipment, materials

and work in progress belonging to you; (ii) you may have the Services completed by others (or complete the Services

(iii) we have no right to compensation for your actions.

(c) If we terminate this agreement under clause 11.1, then in addition to the rights specified in clause 11.3(a) and any other rights we may have:

(i) we retain a lien over and may retain all equipment, materials, Intellectual Property rights and work in progress belonging to you until all outstanding invoices have been paid in full, including any invoice issued under clause 11.3(a)(i).

(d) A party not in default may pursue any other rights or remedies available at law against a defaulting party, subject to clause 10.

12. Non Solicitation

(a) During the Restraint Period following termination of this agreement for any reason, you must not solicit, entice, hire or interfere with:

(i) any of our employees or contractors; or

(ii) any of our customers, or cause them to decrease their dealings with us, either directly or through an intermediary entity or entities

(b) If you breach this clause, you must pay us an amount equal to 50% of the employee's or contractor's new annual remuneration package. The parties agree that this is not a penalty, but represents a reasonable estimate of fair compensation for the costs to us of recruiting, hiring and training a suitable replacement for the employee or contractor.

13. Dispute Resolution 13.1 Mediation

(a) If a dispute arises between the parties in relation to this agreement, either party may give the other party Written Notice that they intend to arrange mediation. (b) The parties must refer the dispute to an independent mediator within 21 days of the written notice.

(c) If the parties cannot agree on a suitable mediator, either party may contact the Law Society in their state and request that they provide a mediator.

(d) The costs of the mediation must be paid by the parties in equal shares

13.2 Legal proceedings

No party may commence court proceedings unless the dispute remains unresolved after 28 days from the date of the written notice provided under clause 13.1(a).

14. General

14.1 Assignment

The parties may only assign or novate this agreement in whole or in part with the prior written consent of the other party. Upon assignment or novation, the parties' obligations and benefits under this agreement are binding on and shall benefit their respective representatives, successors and assigns.

14.2 Costs

All stamp duty, government charges and legal fees incidental to this agreement, specifically including all legal fees incurred in enforcing this agreement on a solicitor own client basis, are the responsibility of and payable by you.

14.3 Force Maieure

If a party is affected by a Force Majeure Event, they must immediately notify the other party of the circumstances. The parties obligations under this Agreement are suspended for the duration of and to the extent that they are affected by the Force Majeure. However, either party may end this Agreement if the Force Maieure continues for more than 21 days.

14.4 Currency and taxation

Unless otherwise stated, all monetary amounts are expressed in Australian dollars exclusive of GST. If any supply under this agreement is or becomes subject to GST, the GST amount is payable in addition to the monetary amounts defined in this agreement.

14.5 Enduring clauses

The parties' rights and obligations under clauses 3.3, 3.9, 6.1(g), 6.3, 7, 8, 9, 10, 11.3, 12, 13 and 14.7, will survive the termination of this agreement for whatever reason.

14.6 Relationship between the parties

Nothing in this agreement constitutes an agency, partnership or contract of employment, or as a guarantee of future employment or engagement. It is the express intention of the parties to deny any such relationships. 14.7 Jurisdiction

The laws of Queensland, Australia apply to this agreement and the parties submit exclusively to the courts of that jurisdiction.

14.8 Severability

If any provision of this agreement is ruled by a court to be invalid or unenforceable, it shall not affect the validity or enforceability of any other provision or part provision of this agreement.

. 14.9 Waiver

Any delay or failure to enforce any rights in relation to a breach by the other party will not be construed as a waiver of those rights.

14.10 Entire agreement

This agreement contains the entire agreement between the parties and supersedes all previous negotiations or agreements in relation to the subject matter of this agreement.

Any variation or amendment to this agreement must be in writing signed by all parties.

15. Definitions and Interpretation

15.1 Definitions

In this agreement:

(a) Annexure means the documents attached as an annexure to the end of these terms and conditions

(b) Business Day means a day (other than a Saturday or Sunday) upon which banks are ordinarily open for business in Brisbane, Queensland, Australia.

(c) Claim means any claim notice, demand, investigation, action, proceeding, litigation, or judgment however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort (including negligence) or statute and whether involving a party to this agreement or third party.

(d) Client Materials means all data and Intellectual Property relating to your business, owned and provided by you, including your logo and branding.

(e) Confidential Information means all spoken, written or electronically stored information belonging to or relating to either party and includes without limitation: (i) any kind of technical, financial or business information:

(ii) details of employees, suppliers, or customers;

(iii) material developed under this agreement; and

(iv) Intellectual Property, concepts, know-how and trade secrets:

(v) but excludes information in the public domain (other than by default under this agreement) or information independently known to the other party.

(f) Consequential Loss includes, without limitation:

(ii) loss of opportunity, loss of anticipated profits or savings, expenses incurred through default or breach, wasted overheads, loss of contract, loss of business, loss of production, loss of use, loss of goodwill, and all other pure economic loss and

(iii) disappointment, distress, stress, and inconvenience.

(g) Defect means in relation to Digital Deliverables a defect that causes the Digital Deliverables not to meet the agreed specifications. where the defect: (i) has a material adverse effect on the Digital Deliverable; and

(ii) can be replicated under test conditions. (h) Deliverables means material developed by us under this agreement and includes Print Deliverables and Digital Deliverables.

(i) Digital Deliverable means any Deliverable, other than a Print Deliverable.

(j) Estimate means the estimate described in clause 4.2.

(k) Force Majeure Event means an unforeseen event beyond the control of the affected party, including an act of god, war, terrorism, riot, vandalism, hacking, industrial action, or law or actions of any government or governmental agency. (I) Indemnified Officers means, in relation to a party, its directors, employees,

contractors, agents and representatives. (m) Insolvency Event in relation to a party means any of the following:

(i) the party enters into a scheme of arrangement with its creditors

(ii) the party is wound up or dissolved, or an administrator, liquidator or receiver is appointed:

(iii) judgment is entered against the party for more than \$20,000.00, which remains unsatisfied or unappealed for more than 21 days; or (iv) the party is placed under official management, commits an act of bankruptcy

or is charged with a criminal offence. (n) Intellectual Property means all intellectual property rights, including copyright,

inventions, patents (including patent applications), trade marks (whether registered or not), designs (whether registrable or not), eligible circuit layout rights. domain name licences, know-how and other confidential information and rights, and includes the right to register any intellectual property rights.

(o) Liability means any liability (whether actual or prospective), loss, damage. cost or expense of any description, including legal fees on a solicitor and own client basis

(p) Notice of Default means a Written Notice that:

(i) states that it is a notice of default; (ii) specifies the default with sufficient detail and particulars:

(iii) gives a reasonable deadline by which the default must be remedied, of not less than 5 business days. (g) Out-of-Scope Services means all services outside the Scope of Services.

(r) Print Deliverable means any Deliverable produced as a result of printing

(s) Restraint Period means the duration of this agreement and the longest enforceable period following termination of:

(i) 12 months:

(ii) 6 months:

(iii) 3 months; or

(iv) 1 month. (t) Schedule means the quote set out in the online form which you submitted to us by way of placing an order for Services.

(u) Services means the Services in relation to the Project, as set out in the Schedule and Annexure A.

(v) Travel Rate means our hourly rate applicable to travelling time, as set out in the Schedule.

(w) Written Notice means providing information in writing, including by email. 15.2 Interpretation The following rules of interpretation apply unless the context requires otherwise:

(a) where applicable, all terms used in this document have the same meaning as defined in the Schedule to this agreement; (b) if something comes within the meaning of Confidential Information in this agreement and Intellectual Property in this agreement, and there is any conflict

in this agreement regarding its provisions concerning Intellectual Property and Confidential Information, the provisions concerning Intellectual Property prevail; (c) nothing in this agreement shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law (including the Competition and Consumer Act 2010 (Cth)) and which by law cannot be excluded, restricted or modified.