

# Matter Solutions Pty Ltd Terms of Business

This Agreement (“Agreement”) incorporates the standard terms and condition of all services provided by Matter Solutions to You, the Client. By purchasing services from Matter Solutions, You agree to these Terms and Conditions of Business.

## 1. Definitions and Interpretations

1.1. In this Agreement, the following definitions will apply:

‘Administration Charge’ means a charge applied where in the course of providing the Works We incur any Disbursement, We shall be entitled to charge an Administration Charge for such Disbursement, which shall be equal to 20% of the cost of the Disbursement unless specified otherwise in the Order Form;

‘Agreement’ means the Terms, the Order Form, and any supplemented agreement provisions, including, but not limited to, appendices regarding Website Development, Search Engine Optimisation (SEO), Domain Names, and Hosting;

‘Appendix’ means an appendix attached to the Agreement;

‘Business Day’ means between 9:00am and 5:00pm on a day other than a Saturday, Sunday or public holiday in the State of Queensland;

‘Charges’ means the charges made by Us for the Works which shall be charged at Our current hourly rate or such fixed fee as We shall agree with You in writing in the Order Form;

‘Client’, ‘You’ and ‘Your’ shall mean the organisation We have contracted with as named on the Order Form;

‘Conflict of Interest’ means having an interest (whether personal, financial or otherwise) which conflicts or may reasonably be perceived as conflicting with the ability of Us to perform Our obligations under the Agreement fairly and objectively;

‘Disbursements’ means the direct costs to Us of goods or services charged by any third party to Us for use in or incidental to the provision of the Works including without limitation: market research, printing, software testing, installation, hosting fees and all delivery, duplication, copying, courier and insurance costs;

‘Expenses’ means the costs incurred by Us on business class air travel or fuel for vehicle use, three-star accommodation and subsistence (but not any such costs within 50 km of Brisbane’s CBD) in relation to the provision of the Works;

‘Matter Solutions’, ‘We’, ‘Our’ and ‘Us’ shall mean Matter Solutions Pty Ltd (ACN 122 449 469 and ABN 761 22 449 469);

‘Notice’ means a notice in writing under or in connection with the Agreement from one Party to the other Party;

‘Order(s)’ and ‘Order Form(s)’ means the form used to list requested Works and constitutes an element of the Agreement;

‘Our Contact’ means the person within Your organisation who has been tasked with ensuring that the agreed commitments are satisfied;

‘Party’ means each Matter Solutions or the Client;

‘Works’ means all the services provided by Us including, without limitation, proposals, analysis, documentation, produced and deployed software solutions, Licensed Material, and consultative facilitation and/or analysis; and

‘Terms’ means the terms and conditions listed in the Agreement.

1.2. The following rules apply in interpreting these Terms unless the context otherwise requires:

- (a) words importing a gender include the other gender;
- (b) words in the singular include the plural and vice versa;
- (c) a reference to an entity or person includes an individual, corporation, partnership or other legal entity;
- (d) a Party includes its executors, administrators, liquidators, successors and permitted assigns;
- (e) ‘consent’ means prior written consent;
- (f) ‘in writing’ means either by letter, email or facsimile;
- (g) a reference to a clause, attachment or annexure is a reference to a clause, attachment or annexure to this Agreement;

- (h) a reference to a clause is a reference to all of its subclauses; and
- (i) an Order or Appendix forms part of the Agreement to which it is attached.

## **2. Principle**

- 2.1. The intent and spirit of Our agreement and working approach is to form a project focused relationship between Us and You. In consideration of the payment by You to Us of the Charges, We agree to provide to You the Works in accordance with and subject to these Terms.
- 2.2. Where the Client Is a company, the signatory for the company confirms that he/she is a director and has full authority of the Client company to commit it to a project with Us and agrees to perform these Terms on behalf of the company.

## **3. Application**

- 3.1. These Terms apply to any or all Works to be provided by Us to You from time to time. These Terms together with any Order or Appendix represent the entire Agreement relating to the Works and supersede any previous Terms in respect of other Works carried out by Us for You. Save in the case of fraudulent misrepresentation or concealment, any previous representation, warranty or undertaking, whether oral or written, (including in any previous correspondence or communication) and any other terms and conditions sought to be imposed by You by Your own Order Forms or otherwise are expressly excluded.
- 3.2. No change to these Terms, or any subsequent version of these Terms as may be adopted by Us and posted in the client extranet of Our website from time to time, or any other part of the Agreement, shall be binding unless made with the prior written consent of a Director of Matter Solutions. Unless We notify You in writing to the contrary, no agent of, or person employed by or under contract with Us, has any authority to alter or vary these Terms or the Agreement with You in any way.
- 3.3. The Parties may at any time modify the scope of the Works by including desired changes in a written Order that explains the changes and adjustment to the payment for the Works that result from such changes. Such Order shall become effective when signed and dated by both parties.

## **4. Scope of Works**

- 4.1. We agree to produce Works for the estimated total price outlined in the Order Form on which an agreed payment is specified.
- 4.2. We will design, develop or otherwise produce Work according to the agreed plan outlined in the Order.
- 4.3. As time is of the essence, You agree to provide Us with everything We need to complete the Works, including, but not limited to, text, images, and other information as and when We need it, and in the requested format as otherwise We may be unable to deliver the Works to You at the promised date and time.
- 4.4. You agree to review Our Works, provide feedback and sign-off approval in a timely manner as time is of the essence.
- 4.5. Provided materials by You remain Your copyright and intellectual property, and upon the completion or termination of the Agreement, they will be returned to You.
- 4.6. Failure by You to make timely payments shall entitle Us to cease all Works on Your behalf until payment is made.
- 4.7. The payment details set out in the Agreement shall apply unless the Order form specifies otherwise.

## **5. Charges**

- 5.1. The Charges made by Us for the Works, shall be Our current hourly rate or such fix fee as We shall agree with You in writing in the Order Form.
- 5.2. The Charges may be invoiced separately by Us for payment by You:
- 5.3. We are We are entitled to invoice Our Charges, Disbursements, Expenses and Administration Charges monthly in arrears (or in advance where the amounts are known) save to the extent that the Order Form specifies fixed instalments in respect of each item.
- 5.4. Where We specify a fixed price for any Works, such price is only valid for 30 days from the date of submission of such a price or until accepted by Us, whichever is the earlier.
- 5.5. In the event that any Work is varied in any way by You, We shall be entitled to charge additional Charges, Disbursements, Expenses and Administration Charge at Our prevailing rates incurred by Us as a consequence of such variation.

## **6. Orders**

- 6.1. Each Order for Works by You shall be deemed to be an offer by You to buy the Works from Us subject to these Terms. No Order shall be deemed to be accepted by Us until We issue a written acknowledgement or We commence the Work.
- 6.2. We shall be under no obligation to deliver any Works in addition to those identified in the Order without the prior written consent of a director of Matter Solutions.
- 6.3. You shall provide to Us, at Your cost, any information, resources or facilities reasonably requested by Us for the delivery of the Services and, where necessary, ensure that Your employees, contractors and other suppliers co-operate fully and promptly with Us.
- 6.4. Any instructions supplied by You to Us in relation to the Works must be complete, accurate and clearly legible. We reserve the right to make a charge for any costs and any additional work incurred by Us from any failure by You to comply with this provision and We shall not be liable for any errors caused by such failure.

- 6.5. No purported cancellation of any Order or part of an Order will be effective unless and until We give written acknowledgement of Our acceptance of such cancellation. We may, as a condition of such acknowledgement, or otherwise on early termination in accordance with clause 10, impose such reasonable charge for cancellation as We shall consider appropriate including a charge for any costs and Charges for any Work already undertaken and/or incurred by Us at the date cancellation is acknowledged by Us.
- 6.6. You acknowledge and agree that Our services commence in accordance with the provisions of clause 6.1 above.

## **7. Payment**

- 7.1. The quoted price of the Works is exclusive of GST or its equivalent and all other taxes, imposts and duties (if any) which, if applicable to the Works, shall be payable by You at the appropriate rate and always in a timely manner as may be required by Us from time to time.
- 7.2. An advance of 50% of the total project estimate upon engagement is required before Work shall commence and You shall be invoiced thereafter at monthly intervals unless otherwise agreed in writing.
- 7.3. Invoices will be delivered electronically (via Our client extranet and/or email) unless specifically requested in another format or in writing at any time, prior to delivery of the invoice.
- 7.4. We reserve the right to demand payment on account in advance of providing any Works and unless otherwise specified in the Order. We may invoice in respect of Work completed or to be carried out, before, during and after completion of such work as We deem appropriate unless otherwise agreed in writing.
- 7.5. Invoices shall be payable within 7 days of the date of the invoice without deduction or set-off. Unpaid invoices shall attract interest at a rate of 4% above the base rate of Westpac Banking Corporation per annum without prior notice (such interest being payable both before and after any judgment may be obtained). For the avoidance of doubt, We reserve the right, forthwith and at Our sole discretion, to suspend the provision of any or all Works to You until payment as invoiced is made by You.
- 7.6. In respect of 'closely held companies,' any instructions in respect of any Works requiring payment therefore shall be considered personal instructions issued to Us by the directors and/or the major shareholders of the company until payment is received.
- 7.7. You agree to advise Us of changes in Your personal information such as account details, debit or credit card details and expiry dates and billing and service addresses, as applicable.

## **8. Disclaimer of Warranties, Limitation of Liability, and Indemnity**

- 8.1. We undertake to provide the Works as specified in the Order Form, however, We specifically exclude any liability for defects and or failure of any inherited software from third parties.
- 8.2. While all software created by Us is checked for bugs and viruses, We do not represent nor warrant that such software will be error free and We accept no responsibility for and bear no liability for any bug or viruses discovered subsequent to delivery of such software.
- 8.3. Bug-fixes will be delivered by Us free of charge in accordance with Our normal response times for a period of three (3) months from the date of project completion.
- 8.4. We represent and warrant that We have the unencumbered right and power to enter into and perform this Agreement and that We are not aware of any claims or basis for claims of infringement of any patent, trademark, copyright, trade secret, or contractual or other proprietary rights of third parties in or to any programming of materials included by Us in the Works or trade names related to the Works. If any of the programming or materials included by Us in the Works becomes the subject of an infringement suit, You may terminate this Agreement and shall be entitled to a refund of any payments that You made to Us under this Agreement.
- 8.5. You represent and warrant to Us that You own (or have a legal license to use) all photos, text, artwork, graphics, designs, trademarks, and other materials provided by You for inclusion in the website, and that You have obtained all waivers, authorizations, and other documentation that may be appropriate to evidence such ownership. You shall indemnify and hold Us harmless from all losses and claims, including attorney fees and legal expenses, that may result by reason of claims by third parties related to such materials.
- 8.6. Neither Party shall be liable for any loss suffered by the other Party or be deemed to be in default for any delays or failures in performance hereunder (other than in relation to payment) resulting from acts or causes beyond its reasonable control or from any acts of God, acts or regulations of any governmental or supranational authority or other commonly accepted event of force majeure.
- 8.7. Unless otherwise and severally undertaken by a separate Agreement, We offer the Works as-is and as-available, and make no representations or warranties of any kind concerning the Works, whether express, implied, statutory, or other. This includes, without limitation, warranties of title, merchantability, fitness for a particular fitness, non-infringement, absence of latent or other defects, accuracy, or the presence or absence of errors, whether or not known or discoverable. Where disclaimers of warranties are not allowed in full or in part, this disclaimer may not apply to You.
- 8.8. To the extent possible, in no event will We be liable to You or any third party on any legal theory (including, without limitation, negligence) or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of use of Works, even if We were advised of the possibility of such losses, costs, expenses, or damages. Where a limitation of liability is not allowed in full or in part, this disclaimer may not apply to You.
- 8.9. The disclaimer of warranties and limitation of liability provided above shall be interpreted in a manner that, to the extent possible, most closely approximates an absolute disclaimer and waiver of all liability.

- 8.10 Under no circumstances shall either You or Us be liable to the other Party or any third party for indirect, incidental, consequential, special or exemplary damages (even if that Party has been advised of the possibility of such damages, arising from any provision of this Agreement such as, but not limited to, loss of revenue or anticipated profit or lost business, costs of delay or failure of delivery, or liabilities to third parties arising from any source).
- 8.11 Where a limitation of warranty or liability is not allowed in full or in part on any legal theory (including, without limitation, negligence) or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of use of Works, even if We were advised of the possibility of such losses, costs, expenses, or damages, Our liability shall not exceed the amount invoiced by Us to You hereunder.
- 8.12 When instructions are given or received orally by Us, We shall have no liability to You for any misunderstanding or misrepresentation and neither shall We accept responsibility for any losses incurred by You arising from any misunderstanding or misrepresentation arising from such oral instructions.
- 8.13 Where a limitation of warranty or liability is not allowed in full or in part on any legal theory (including, without limitation, negligence) or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of use of Works, even if We were advised of the possibility of such losses, costs, expenses, or damages, You shall protect and indemnify Us from any and all third party claims (civil and criminal), liabilities costs, legal costs, damages and expenses in respect of any matters of content in respect of the Works.
- 8.14 Without prejudice to the rights of either You or Us, if the Works are held to constitute an infringement of any intellectual property right of any third party or to result in such wrong, and such Work is enjoined (by temporary, preliminary or permanent injunction), either Party, as the case may be, at its own expense, shall use its best diligent efforts to procure for the other Party the right to continue to the use of the Works, as applicable.
- 8.15 You hereby irrevocably warrant that the Works are for lawful purposes and do not defame any party or transgress the rights of any other entity whatsoever.
- 8.16 We do not accept any responsibility and shall have no liability to You for any recommendation, introduction or suggestion of any third party to You or the engagement of any third party for or on behalf of You whether or not at Your request.
- 8.17 Each Party agrees to defend, indemnify, and hold harmless the other Party and its officers, directors, agents, affiliates, distributors, representatives, and employees from any and all third party claims, demands, liabilities, costs and expenses, including reasonable attorney fees, costs and expenses resulting from the indemnifying Party's material breach of any duty, representation, or warranty under this Agreement.

## 9. Confidentiality & Publicity

- 9.1 Both You and We undertake not to disclose to a third party any confidential information which You or We receive relating to the contents or performance of this Agreement or the other's business in general (e.g., trade secrets, know-how and confidential information), and shall procure that each of its directors and employees shall not do so, except with the prior consent in writing of the other, except as may be required by law, or to the extent to which that information is publicly available or already known to the receiving Party at the date of receipt other than through any unauthorised disclosure by any person.
- 9.2 Without prejudice to clause 9.1, We shall be entitled to mention Your name as a client of Ours and the name(s) of services in respect of which We provide services in publicity and promotional material on and off-line, including, but not limited to, portfolios, articles and books, without Your prior consent unless You send Notice in writing to Us (by email to [helpdesk@mattersolutions.com.au](mailto:helpdesk@mattersolutions.com.au)) referring to this clause and requesting no publicity. Any request will only apply to publicity material to be prepared after such Notice is given and We will be under no obligation to cease using material printed or published prior to such Notice.
- 9.3 These confidentiality provisions shall continue to be effective after the termination of this Agreement. Upon termination of this Agreement, We will return to You all records, notes, documentation and other items that were used, created, or controlled by Us during the term of this Agreement.

## 10. Termination

- 10.1. We will be entitled to terminate immediately by written Notice in the following circumstances:
  - (a) where the Client being a company, a receiver is appointed in respect of its affairs;
  - (b) where the Client being a company, a petition is issued for the winding up of the Client;
  - (c) a third party issues a petition for bankruptcy against the Client; or
  - (d) the Client commits an act evidencing insolvency.
- 10.2. Either Party may terminate any Agreement with the other by Notice in writing in the following circumstances:
  - (a) immediately where either Party is in material breach of these terms and such breach is not capable of remedy; or
  - (b) where the material breach is capable of remedy, then upon the expiry of 30 days from such Notice where the other Party has failed to remedy a remediable breach of these terms.
- 10.3 Upon termination, We shall be entitled to immediately restrict, suspend or terminate without Notice Your access to and use of the Works and to terminate this Agreement upon Your breach of any part of this Agreement whatsoever, including, without limitation, the non-payment of any sums as and when they fall due.
- 10.4 On termination for breach by You, the total payable for any Works carried out on behalf of You (whether completed or not) shall be chargeable as per the Order Form. In the case of breach by Us which is not capable of remedy, We shall be entitled in the case of partly completed work to payment for the Work completed at Our prevailing rate. Works completed shall be delivered to the client upon payment of said sum.

- 10.5 A cancellation fee determined by Us shall be payable by You in addition to the Works fee for termination due to the fault of You. The cancellation fee calculated at Works to date plus 10% of the Work completed to date or \$1,500, whichever is the greater.
- 10.6 Termination of this Agreement by either Party pursuant to clause 10 will be without prejudice to both Parties' prior accrued rights. Following termination, We will return to You any materials supplied by You to Us and vice versa (save to the extent that ownership in any such materials has already passed to You under these terms).

#### **11. Notice**

Any Notices required to be in writing must be served in person or by registered mail at the address in the Order Form or the last known business address of either party and such Notice shall be deemed to have been received upon delivery in the case of delivery by hand or electronically or within one working day in the case of delivery by registered mail.

#### **12. Resolution of Disputes**

- 12.1 If a dispute or difference arises between the Parties in relation to this Agreement or concerning the performance or nonperformance by a Party of its obligations under the Agreement, whether raised during the performance of the Works or after completion, a Party may give Notice of the dispute to the other Party. The Parties must, if requested by either Party within ten (10) Business Days of receipt of a Notice of dispute by a Party, refer the dispute to mediation before commencement of any litigation, other than for injunctive relief, in relation to this dispute.
- 12.2 The mediator, the mediator's fees and the mediation rules must be:
- (a) mutually agreed upon by the Parties in writing; or
  - (b) in the absence of agreement, within ten (10) Business Days from receipt of a Notice of a dispute, as determined by the Chairperson of the Queensland Chapter of the Institute of Arbitrators and Mediators Australia.
- 12.3 The Parties agree to share the costs associated with the mediation in equal shares between them.
- 12.4 Notwithstanding the existence of a dispute, each Party will continue to perform its obligations under the Agreement where practicable.

#### **13. Assignment**

- 13.1 We reserve the right to:
- (a) sub-contract any of the work required to fulfill the Order and deliver the Works; and
  - (b) to assign this Agreement upon Notice to You.
- 13.2 Without limiting the rights in 13.1, this Agreement is not assignable, in whole or in part, by either Party without the prior written consent of the other Party. You undertake that You shall not nor purport to assign, lease, charge, sub-license, or otherwise transfer such rights and obligations in whole or in part. Any attempt to make any such assignment shall be void.

#### **14. Conflict of Interest**

- 14.1 We warrant that, to the best of Our knowledge, as at the commencement of the Agreement, We do not have, or are likely to have, a Conflict of Interest in the performance of Our obligations under the Agreement.
- 14.2 If a Conflict of Interest or risk of Conflict of Interest arises before completion of the Works, We will immediately give Notice of the Conflict of Interest, or the risk of it, to You.
- 14.3 We will:
- (a) take all reasonable measures to ensure that none of Our directors, employees, agents or sub-contractors engage in any activity or obtain any interest which is in conflict with Our ability to supply and perform the Works in good faith and objectively; and
  - (b) immediately give Notice to You of any Conflict of Interest relating to the activities or interests of any of Our directors, employees, agents, and/or subcontractors.
- 14.4 Upon receipt of Notice in accordance with clause 14.2 and 14.3(b), or upon You otherwise identifying a Conflict of Interest, You may either:
- (a) direct Us as to how to manage the Conflict of Interest and We will comply with any reasonable direction so given by You; or
  - (b) suspend the Agreement with Notice for a specified period or until the Conflict of Interest is resolved, whichever occurs first.
- 14.5 If clause 14.4(a) or 14.4(b) applies, We will give You Notice when the Conflict of Interest or risk of Conflict of Interest is resolved.

#### **15. Attorneys Fees**

In any legal action between the Parties concerning this Agreement, the prevailing Party shall be entitled to recover reasonable attorney fees and costs.

#### **16. Severability**

If any provision of this Agreement is held to be invalid, illegal or unenforceable, the remaining portions of this Agreement shall remain in full force and effect and construed so as to the best effectuate the original intent and purpose of this Agreement.

#### **17. Waiver**

Any delay or forbearance by either Party in enforcing any provision of this Agreement or any rights hereunder shall not be

construed as a waiver of such provision or right thereafter to enforce the same.

**18. Governing Law/Authority**

This Agreement shall be governed by and construed in accordance with the laws of the State of Queensland, Australia, and the Parties agree to submit to the exclusive jurisdiction of the Supreme Court at Brisbane.

**19. Complete Contract/Amendment**

Any representations made by either Party prior to the Order Form are not representations inducing the other Party to enter into an agreement with the other since any important matters will have been included in the Order Form. This Agreement, including the Order Form and Appendix, supersedes all prior agreements and understandings between the Parties for performance of the Works, and constitutes the complete agreement and understanding between You and Us. You and Us may amend this Agreement in a written document signed by both.

**20. Clauses to Survive Termination**

The following clauses will survive termination or expiration of this Agreement:

- |    |  |
|----|--|
| 1  | Definitions and Interpretation                     |
| 8  | Disclaimer of Warranties, Liability, and Indemnity |
| 9  | Confidentiality & Publicity                        |
| 17 | Waiver   |
| 18 | Governing Law                                      |
|    | Appendices   |

## Appendix A - Website Development

**By purchasing the services of a website development with Us, You accept and agree to be bound by the terms and conditions of this Appendix A - Website Development. You are granted the Licensed Rights in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from making the Licensed material available under these terms and conditions.**

### 1. Incorporation

This Appendix references and incorporates in full the Terms of the Agreement.

### 2. Definitions

(a) Licensed Material means Our artistic or literary work, database, compiled or encoded code, including, but not limited to, XHTML markup, CSS and other code.

(b) Licensed Rights means the rights granted to You subject to the terms and conditions of the Agreement.

### 3. Scope

- 3.1 Subject to the terms and conditions of the Agreement and Licensed Rights, We grant You the license to use the Licensed Material upon final payment.
- 3.2 All intellectual property rights subsisting in the Works and Licensed Material shall remain Our property unless specifically agreed in writing prior to the commencement of the Works or the provision of any services.
- 3.3 Your use of any Works provided by Us is provided on a temporary license prior to payment.
- 3.4 Upon payment, We will provide You with a license to use the compiled or encoded Works developed by Us. Except as provided for in these Terms, the license granted to You shall not entitle any party to publish, copy, reproduce, distribute, extract, modify, re-utilise, or reverse engineer the Works in anyway unless the Work has been clearly defined by Us as "Free Software" and explicitly mentioned in the Order Form. For the avoidance of doubt, such Works specifically includes, but is not limited to, XHTML markup, CSS and other code.
- 3.5 Your license to use the Licensed Material will be defined on the Order Form. Whether Your license is perpetual or time limited, Your license shall not be transferable or assignable to any other party without Our consent. If You are a company, then the sale or other transfer of 25% or more of the share-holds in You shall be deemed to be a transfer.
- 3.6 Failure to comply with these terms of business may result in revocation of the license and/or pursuance of You for infringement of Our copyright and/or Our intellectual property rights. As per clause 10 of the Standard Term and Conditions Agreement, We reserve the right to withhold or withdraw any or all services for non-payment and/or including but not limited to a temporary suspension of the license and access to the Works, including Licensed Material, as We deem fit.
- 3.7 You are not required to accept this license, however, nothing else grants You permission to use the compiled or encoded Works, including Licensed Material, developed by Us. Your permission to use the Works is prohibited if You do not accept this License. Therefore, Your use of the Works indicates Your acceptance of this license, and all Terms of the Agreement.
- 3.8 Should We agree to waive, in part or in full, any of Our reserved copyright or intellectual property rights subsisting in the Works, in particular, the Licensed Material, a separate Agreement with a payment plan shall be required before the waiver is effectuated.

### 4. Disclaimer of Warranties and Limitation of Liability

- 4.1 Unless otherwise separately undertaken by a separate Agreement pursuant to Appendix A - Website Development Component Clause 3.8, We offer the Licensed Material as-is and as-available, and make no representations or warranties of any kind concerning the Licensed Material, whether express, implied, statutory, or other. This includes, without limitation, warranties of title, merchantability, fitness for a particular fitness, non-infringement, absence of latent or other defects, accuracy, or the presence or absence of errors, whether or not known or discoverable. Where disclaimers of warranties are not allowed in full or in part, this disclaimer may not apply to You.
- 4.2 To the extent possible, in no event will We be liable to You on any legal theory (including, without limitation, negligence) or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of this license or use of Licensed Material, even if We were advised of the possibility of such losses, costs, expenses, or damages. Where a limitation of liability is not allowed in full or in part, this disclaimer may not apply to You.
- 4.3 The disclaimer of warranties and limitation of liability provided above shall be interpreted in a manner that, to the extent possible, most closely approximates an absolute disclaimer and waiver of all liability.

### 5. Term and Termination

- 5.1 This License applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this License, then Your rights under the License terminate automatically.
- 5.2 Where Your right to use the Licensed Material has terminated under Section 5.1, it reinstates:
  - (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or

(b) upon express reinstatement by Us.

For the avoidance of doubt, this Section 5.2 does not affect any right We may have to seek remedies for Your violations of the license.

5.3 For the avoidance of doubt, We may offer the Licensed Material under separate terms or conditions under a separate agreement.

5.4 This Appendix survives the termination of the Agreement.

## Appendix B - Web Design

By purchasing the services of a web design with Us, You accept and agree to be bound by the terms and conditions of this Appendix B - Web Design. You are granted the Licensed Rights in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from making the Licensed material available under these terms and conditions.

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Definitions

(a) Licensed Material means Our artistic or literary work, database, compiled or encoded code, including, but not limited to, XHTML markup, CSS and other code.

(b) Licensed Rights means the rights granted to You subject to the terms and conditions of the Agreement.

### 3. Scope

- 3.1. We agree to design and develop a web design for the estimated total price outlined in the Order Form on which an agreed payment is specified.
- 3.2. We will design and develop a web design according to the agreed plan outlined in the Order. We will provide one main design plus the opportunity for You to make up to two (2) rounds of revisions. If You would like to make further design revisions, You may commission Us at the rate of \$400 per half day or as quoted at that time.
- 3.3. As per the Terms of the Agreement, You agree to provide Us with everything We need to complete the Works, including, but limited to, text, images, and other information as and when We need it, and in the requested format. Provided materials by You remain Your copyright and intellectual property, and upon the completion or termination of the Agreement, they will be returned to You.
- 3.4. You agree to review Our Works, provide feedback and sign-off approval in a timely manner.

### 4. Detail of Work

- 4.1. If the Works includes XHTML or HTML mark-up and CSS templates, We will develop these using valid HTML5 markup and CSS3 for styling.
- 4.2. We will test all Our markup and CSS in current versions of all major browsers, including, but not limited to, Apple, Microsoft, Mozilla and Opera. We will also test to ensure that pages will display visually in a similar, albeit not necessarily identical, in Microsoft Internet Explorer 7 for Windows as this browser is now past its sell-by date.
- 4.3. We will not test Your Works in old or abandoned browsers such as Microsoft Internet Explorer 5, 5.5, 6 or 7 for Windows or Mac, previous versions of Apple's Safari, Mozilla Firefox or Opera unless otherwise specified on the Order Form.
- 4.4. Unless specified in the Order Form, We are not responsible for writing any text copy. However, We will advise on the strategy and placement of the content for an optimum conversion rate and will recommend a copywriter if needed.
- 4.5. As requested, You will supply Us with photographs either in digital or printed format. If You choose to buy stock photographs, We can suggest vendors of stock photography. If You choose to have Us supply the photographs, You will be charged at \$88 per hour after a free initial consultation to determine the best course of action for You.

### 5. License

- 4.1. Upon payment, We will provide You with a license to use the Licensed Material. Except as provided for in these Terms, the license granted to You shall not entitle any party to publish, copy, reproduce, distribute, extract, modify, re-utilise, or reverse engineer the Works in anyway unless the Work has been clearly defined by Us as "Free Software" and explicitly mentioned in the Order Form. For the avoidance of doubt, such Works specifically include, but are not limited to, XHTML markup, CSS and other code.
- 4.2. Your license to use the Licensed Material will be defined on the Order Form. Whether Your license is perpetual or time limited, Your license may not be transferred or assigned to any other entity without Our consent which consent We may not withhold without good reason. If You are a company, then the sale or other transfer of 25% or more of the shareholding in You shall be deemed to be a transfer.
- 4.3. Failure to comply with these terms of business may result in revocation of the license and/or pursuance of You for infringement of Our copyright and/or Our Intellectual Property rights. As per clause 10 of the Agreement, We reserve the right to withhold or withdraw any or all services for non-payment and/or including but not limited to a temporary suspension of the license and access to the Works as We deem fit.
- 4.4. To Our knowledge, You own the graphics and other visual elements You provided to Us in this project. We will give You a copy of all files and You are responsible for safely storing the copy as We are not required to keep the copy for You or provide any native source files that We used in creating the files.
- 4.5. You own the text content, photographs and other data You provided unless someone else owns them.
- 4.6. Upon payment, We will provide You with a license to use the Licensed Material. Except as provided for in these Terms, the license granted to You shall not entitle any party to publish, copy, reproduce, distribute, extract, modify, re-utilise, or reverse engineer the Works, including the Licensed Material, in anyway unless the Work has been clearly defined by Us as "Free Software" and explicitly mentioned in the Order Form. Such Works include, but are not limited to, XHTML markup, CSS and other code.

**5. Disclaimer of Warranties and Limitation of Liability**

- 5.1 Unless undertaken by a separate Agreement, We offer the Licensed Material as-is and as-available, and make no representations or warranties of any kind concerning the Licensed Material, whether express, implied, statutory, or other. This includes, without limitation, warranties of title, merchantability, fitness for a particular fitness, non-infringement, absence of latent or other defects, accuracy, or the presence or absence of errors, whether or not known or discoverable. Where disclaimers of warranties are not allowed in full or in part, this disclaimer may not apply to You.
- 5.2 To the extent possible, in no event will We be liable to You on any legal theory (including, without limitation, negligence) or otherwise for any direct, special, indirect, incidental, consequential, punitive, exemplary, or other losses, costs, expenses, or damages arising out of this license or use of Licensed Material, even if We were advised of the possibility of such losses, costs, expenses, or damages. Where a limitation of liability is not allowed in full or in part, this disclaimer may not apply to You.
- 5.3 The disclaimer of warranties and limitation of liability provided above shall be interpreted in a manner that, to the extent possible, most closely approximates an absolute disclaimer and waiver of all liability.

**6. Term and Termination**

- 6.1 This License applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this License, then Your rights under the License terminate automatically.
- 6.2 Where Your right to use the Licensed Material has terminated under Section 6.1, it reinstates:
  - (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or
  - (b) upon express reinstatement by Us.For the avoidance of doubt, this Section 6.2 does not affect any right We may have to seek remedies for Your violations of the license.
- 6.3 For the avoidance of doubt, We may offer the Licensed Material under separate terms or conditions under a separate agreement.
- 6.4 This Appendix survives the termination of the Agreement.



## Appendix C - Hosting

By purchasing the services of a website hosting by Us, You accept and agree to be bound by the terms and conditions of this Appendix C - Website Hosting. You are granted the right to use this service in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from making the service available under these terms and conditions.

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Definitions

'Server' means Our software or computer hardware that responds to requests across a computer network to provide , or help to provide, a network service; and

'Service' means the network service that supports data storage, manipulation, presentation or communication or other capabilities.

### 3. Scope

- 3.1. Website hosting enables Your website to be uploaded onto Our Servers where it can be accessed by everyone on the Internet via HTTP. We offer a range of hosting plans, based on the size of the web space storage required.
- 3.2. We specifically exclude any warranty as to the accuracy or quality of information received by any person via the Server and in no event will We be liable for any loss or damage to any data stored on the Server. You are responsible for maintaining insurance cover in respect of any loss or damage to data stored on the Server.
- 3.3. You warrant to Us that You will only use Your assigned hosting for lawful purposes. In particular, You further warrant and undertake to Us that: You will not, nor will You authorise or permit any other party, to use the Server in violation of any law or regulation; You will not knowingly or recklessly post, link to or transmit: any material that is unlawful, threatening, abusive, harmful, malicious, libellous, defamatory, obscene, pornographic, profane, violent or encouraging violence or terrorist activities or otherwise objectionable in any way; or any material containing a virus or other hostile computer program; any material that shall constitute or encourage a criminal offence, give rise to civil liability or that violates or infringes any trade-mark, copyright, other intellectual property rights or similar rights of any person, firm or company under the laws of any jurisdiction; and You will conform to the standards and acceptable use policies of Matter Solutions and will ensure that none of Your end users, make excessive or wasteful use of the Server to Our detriment or that of Our other customers.
- 3.4. We may suspend the Service immediately in Our sole discretion if We receive any complaint that material on the Server may be in contravention of the preceding clause is unlawful, harmful or defamatory or if We believe Our standards or acceptable use policy has been breached without liability.
- 3.5. Hosting services are provided on the basis of an initial term of 12 months, which, subject always to Your right to cancel the services or payment of any outstanding Charges and a cancellation fee equivalent to 30 days services, will automatically continue for additional 12 month periods thereafter unless and until terminated in writing on 30 days Notice.
- 3.6. Whilst We shall use reasonable endeavours to ensure the integrity and security of the Server, We do not guarantee that the Server will be free from unauthorised users or hackers, virus or worms.

### 4. Usage

- 4.1. You acknowledge that Charges will be incurred when the Service, as applicable (e.g. web hosting) is used. It is therefore important that You take steps to ensure that such usage does not occur without Your authorisation. You should ensure that You are in control of devices that might make use of Your Services, such as computer, handsets, mobile phones, and wireless devices connected to Your service and that third parties cannot access or use such equipment without Your authority. You acknowledge that usage of some Services can occur because of an infection with Your computer with a virus or due to other unauthorised third party intrusions. You should ensure that You have appropriate protection systems operating on Your equipment to restrict or limit the possibility of unauthorised usage.
- 4.2. As We are not able to control access or usage of Your handsets and other equipment, You are responsible for all usage Charges in respect of the use of the Service, whether or not such usage was authorised by You, unless the usage was caused by a mistake by Us.
- 4.3. You are not permitted to authorise a third party to use Your Service without direct supervision and/or written authorisation by us.
- 4.4. You acknowledge that We cannot be held responsible for any loss incurred by You because of faults and/or failures within a third party carrier's network infrastructure.
- 4.5. While We will use Our best endeavours in providing the Service, You use it as Your own risk. Even if You lose some equipment or permit another person to use Your Service, You are solely responsible for its use including:
  - (a) the calls made and messages sent;
  - (b) the sites and content accessed;
  - (c) the content or software downloaded and the effect it may have on Your equipment or Service;

- (d) the products and services purchased;
  - (e) the information provided to others;
  - (f) the installation or use of any equipment or software whether provided by Us or not;
  - (g) the modification of any settings or date on Your Service or related services or equipment whether instructed by Us or not;
  - (h) the personal supervision of any users under the age of 18 who use the Services; and
  - (i) the lawfulness of Your activities when using the Service and accessing any sites and third party content.
- 4.6 The Service is provided to You on the basis that it is used only for approved purposes. In particular, You must:
- (a) not use the Service in any manner involving illegal, malicious, deceptive or misleading activity;
  - (b) not breach any standards, content requirements or codes set out by any relevant authority or industry body;
  - (c) not use the Service in any way which interferes with the operations of the service network, anyone else's enjoyment of their Service or which upsets or offends any person;
  - (d) not use the Service for commercial purposes or in any way distribute or resell the Service without Our written permission;
  - (e) obey all laws, regulations, guidelines and Our reasonable instructions concerning Your use of the Service; and
  - (f) give Us all information and cooperation that We may need in relation to the Service.
- 4.7 You must not use the Service in a way which contravenes any fair use policy, acceptable use policy or fair go policy that applies to the service.
- 4.8 We may suspend or terminate, with or without Notice, Your Service if, in Our reasonable opinion, the Service has been directly or indirectly involved in activities that are detrimental to Our internet service or jeopardise the use of Our Service or its performance for other customers or how the wider community may perceive it. Such activities include, but are not limited, to:
- (a) Spamming e-mail or forwarding spammed email to other Internet users' e-mail addresses;
  - (b) being listed or causing the listing of Us or Our other customers on any real-time blacklist;
  - (c) e-mail bombing and the use of bulk e-mail programs to unsolicited recipients making commercial advertising, informational announcements, charity requests, petitions for signatures, chain letters and political or religious messages;
  - (d) attempting to obtain unauthorised access to other Internet servers and systems; and
  - (e) making misrepresentations or abusive or offensive behaviours in newsgroups and other online facilities.
- 4.9 In any of the above circumstances in Hosting 4.8, if We elect to proceed without giving Notice, We will initially only suspend the Service and will provide You Notice of the suspension having occurred and the grounds on which the suspension was made. We will reasonably consider any evidence or submissions You may provide to Us to demonstrate that the Service was not used for the activity. If We are satisfied that the Service was not used for the activity, We will reinstate the Service as soon as practicable. If We are not so satisfied, We will terminate the Service by giving Notice.
- 4.10 You must not use the Service in a way or post to or transmit to or via the Service any material which interferes with other users or defames, harasses, threatens, menaces, offends or restricts any person or which inhibits any other customer from using or enjoying the service. You must not use the Service to send unsolicited electronic mail messages to anyone. You must not attempt any of these acts or permit another person to do any of these acts.
- 4.11 We may suspend without Notice Your account if it has been used in offensive and/or illegal activities under State and/or Commonwealth laws. This includes the dissemination of banned prnographic material and other illegal content. In such cases, the relevant law enforcement agency(ies) will be notified, and offending material(s) may be passed on to them.
- 4.12 In the case of use of a website or web hosting Service provided by Us for the public dissemination of violent or pornographic material, You must issue appropriate content warnings and provide viewing guidelines on Your website, as per the Classification Act. This is especially important with respect to content which is likely to be considered unsuitable for children according to the Classification Guidelines provided in the Act. If it is brought to Our attention that these appropriate content warnings and/or viewing guidelines have not been provided, then We reserve the right to suspend or terminate Your account and pass this information on to the relevant authorities.
- 4.13 We may monitor the use of Your Service, however, We do not promise to do so. If We identify excessive use or unusual activity, We may temporarily restrict or suspend Your Service. If We do so, We will endeavour to contact You via the contact details You provided to Us either on the Order Form or by any Notice of updated details provided by You to Us. We may require an advance payment before Your Service is restored. You should not rely on Us to contact You or to suspend Your Service in the event of excessive or unusual activity.
- 4.14 We may investigate any misuse of the Service by You, in conjunction with relevant law enforcement agencies. If Your use of the Service results in loss to other users or Us, You may be liable to pay compensation.

## 5. Term and Termination

- 5.1 The Website Hosting Appendix applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with the terms and conditions of this Appendix, then Your rights and use of the website hosting plan may terminate automatically.
- 5.2 Where Your right to use the web hosting services has terminated under Section 5.1, it reinstates:
- (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation;
  - (b) upon express reinstatement by Us; or
  - (c) as stated specifically in the Appendix.

For the avoidance of doubt, this Section 5.2 does not affect any right We may have to seek remedies for Your violations of the Appendix.

5.3 This Appendix survives the termination of the Agreement.

## Appendix D - Domain Name Hosting Services

By purchasing the services of Domain Name Hosting with Us, You accept and agree to be bound by the terms and conditions of this Appendix D - Domain Name Hosting Services. You are granted use in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from these terms and conditions.

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Definitions

'Fee' means the cost charged, including by third parties, in association with, but not limited to, the registration or renewal of a domain name; and

'Services' means the service provided in registration and management of domain name hosting.

### 3. Scope

- 3.1 Domain name hosting services are provided to give You control over Your domain names. These registered domain names are available to be used by everyone on the Internet. You can create records that point to services within Your domain.
- 3.2 Time is of the essence in respect of payment of Fees that relate to the relevant fee for a domain name registration, You must make payment in full before your application can be accepted. We do not accept any responsibility whatsoever for achieving the name You seek.
- 3.3 Subject to an increase in third party costs, the Fees for such Services shall be in accordance with the relevant scale of Charges and rates published from time to time in Our Standard Price List. We reserve the right to alter the Fees for domain services payable for Services at any time and any new Order for Services after such time shall be deemed to have been made in acceptance of such new Fees.
- 3.4. You acknowledge that Administration Costs may differ from the amount or amounts (if any) previously indicated by Us as a result of changes in pricing by the relevant domain authority and/or changes in the exchange rate and associated bank Charges and You agree to pay the actual Administration Costs incurred Us on Your behalf if higher than those set out in the Order.
- 3.5 You acknowledge that the Fee may represent only the initial costs of a domain name registration and that continued use of the name will require You to pay recurring Charges and renewal fees.
- 3.6 In the event You instruct us to renew a domain name registration, You will be asked to make advance payment.
- 3.7 Where Works are provided prior to the relevant Fees being paid, We reserve the right to retain the title in and ownership of all domain names registered on your behalf unless and until payment is made, and if such Fees are overdue, We reserve the right to deal with such names without restriction as the full legal and beneficial owner.
- 3.8 In addition to these Terms, all domain name registrations are subject to the terms and conditions of the registrar We may use to fulfil the Order and the rules and regulations of the relevant Network Information Centre (NIC) or similar registry administrator. As a condition of the Agreement, You agree to be bound by the rules and regulations and dispute resolution policies applicable to each domain name applied for on Your behalf. Details of these terms and conditions are available from the relevant registries such as Nominet for .uk ([www.nominet.org.uk](http://www.nominet.org.uk)) or auDA for .au ([www.auda.org.au](http://www.auda.org.au))

### 4. Disclosure of Guarantees and Warranties

- 4.1 In the event You request registration of a domain name, We cannot guarantee that We will be able to register said name and so You must not assume that registration has been effected until We provide You with an explicit 'confirmation of registration'.
- 4.2 You warrant Us that You will not infringe the rights of any third party in respect of the internet domain name requested by You and You shall indemnify Us fully in respect of any such infringements.
- 4.3 We may disclose Your name and address to a complaining individual or domain naming authority if in Our reasonable discretion it is necessary or appropriate to do so.

### 5. Term and Termination

- 5.1 This Appendix applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this Appendix, then Your rights under the Appendix terminate automatically.
- 5.2 Where Your right to use the Appendix has terminated under Section 5.1, it reinstates:
  - (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or
  - (b) upon express reinstatement by Us.For the avoidance of doubt, this Section 5.2 does not affect any right We may have to seek remedies for Your violations of the license.
- 5.3 For the avoidance of doubt, We may offer the Licensed Material under separate terms or conditions under a separate agreement.
- 5.4 This Appendix survives the termination of the Agreement.

## Appendix E - Search Engine Optimisation

By purchasing the services of Search Engine Optimisation with Us, You accept and agree to be bound by the terms and conditions of this Appendix E - Search Engine Optimisation. You are granted the use and benefit of this service in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from making the services available under these terms and conditions.

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Scope

- 2.1. We agree to provide You with Search Engine Optimisation with reporting services ("SEO services") as described in this Appendix in conjunction with the Agreement.
- 2.2. We are authorised to use the specific keywords and/or phrases for development, improving the ranking of, and/or positioning the contents of Your URL(s) in the search engines and/or directories that are most frequently used by the general public which are defined below.
- 2.3. SEO services are intended to provide You with preferential positioning in selected search engines and report results on an ongoing and timely basis. SEO services include:
  - (a) Research keywords and phrases to select appropriate, relevant search terms. Number of keywords is listed in the Order. Additional keyword purchases will require a separate Agreement.
  - (b) Edit various html tags and page text as necessary prior to submission to selected search engines and directories.
  - (c) Create, as required, additional web pages for the purpose of "catching" keyword/phrase searches;
  - (d) Hand-submit Your pages to the engines and directories stated in this Agreement;
  - (e) Create positioning reports for main site and any associated pages showing rankings in the major search engines and under which keywords.
- 2.4. For the purposes of providing these services, You will:
  - (a) provide Us with access to the website or websites, including but not limited to SSH FTP, concerned for uploading new pages, and making changes for the purpose of optimisation;
  - (b) authorize Us to use of all Your logos, trademarks, web site images, etc., for use in creating informational pages and any other uses as deemed necessary by Us for search engine positioning and optimisation;
  - (c) if Your site is light in textual content, You will provide additional relevant text content in electronic format for the purpose of creating additional web pages.

### 3. Guarantees and Limitation of Liability

- 3.1. We have no control over the policies of search engines with respect to the type of sites and/or content that they accept now or in the future. Your site may be excluded from any directory at any time at the sole discretion of the search engine or directory. We will resubmit those pages that have been dropped from the index. As such, You acknowledge the following:
  - (a) Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, We do not guarantee top positions or consistent top ten (10) positions for any particular keywords, phrase or search term;
  - (b) We do not guarantee immediate results as some search engines and directories may take as long as two (2) to four (4) months, and in some cases longer, after submission to list Your site;
  - (c) Occasionally, search engines will stop accepting submissions for an indefinite period of time;
  - (d) Occasionally, search engines will drop listings for no apparent or predictable reason. Often listings will "reappear" without any additional submissions. Should the list not reappear, We will re-submit the site based on the currently policies of the search engine in question.
  - (e) Some search directories offer expedited listing for a fee. If You choose to use these search directories, e.g., Yahoo, then You are responsible for expedited service fees unless otherwise noted in the Order Form.
- 3.2. For the avoidance of doubt, We expressly disclaim any liability or given warranty for content created by Us for use on Your website or social media platform or otherwise.
- 3.2. We are not responsible for changes made to the web site by other parties that adversely affect the search engine rankings of Your webs site.
- 3.3. Additional services not listed herein shall be charged at Our current hourly rate or such fix fee as We shall agree with You in writing in the Order Form.
- 3.4. We are not responsible for the effect and/or impact if You overwrite, change, or in any way modify the SEO services We provided either during or after the Agreement. Additional SEO services will require additional Charges.

### 4. Term and Termination

- 4.1. This Appendix applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this Appendix or Agreement, including failure of timely payment, then We reserve the right to terminate the Works pursuant to Section 10 of the Agreement.
- 4.2. Where Your right to use the Appendix has terminated under Section 4.1, it reinstates:

- (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or
- (b) upon express reinstatement by Us; or
- (c) upon the terms and conditions of Section 10 of the Agreement.

For the avoidance of doubt, this Section 4.2 does not affect any right We may have to seek remedies for Your violations of related directly or indirectly to this Appendix..

4.3 This Appendix survives the termination of the Agreement.

## Appendix F - Social Media Marketing

By purchasing the services of Social Media Marketing with Us, You accept and agree to be bound by the terms and conditions of this Appendix F - Social Media Marketing. You are granted use in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from these terms and conditions.

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Scope

- 2.1 To promote Your online business sales, We agree to provide You with a Social Media Marketing package as specified in the Order Form. Works will be mutually allocated and/or as directed by You based on Our recommendations. The objective is to plan and execute a strategic social media-marketing plan, deploy first-steps organic social, social PPC tactics and facilitate Your future ability to migrate programs Yourself.
- 2.2 As part of Your Social Media Marketing package, We will provide:
  - (a) web marketing planning;
  - (b) search engine marketing;
  - (c) strategic online marketing;
  - (d) social media optimisation;
  - (e) implementation of sales effective strategies; and
  - (f) traffic and analytical reports.
- 2.3 In regard to the creation and management of social platforms, Our services may include, but are not limited to, depending on the selected package:
  - (a) creating and managing social media platforms;
  - (b) increase customer engagement and awareness;
  - (c) curate and distribute content;
  - (d) engage with Your follower base with daily posting (e.g., image and video integration);
  - (e) creating ad campaigns (separate budget for paid campaigns); and
  - (f) create exposure, followers, and links, including SEO.
- 2.4 For packages that include management by Us, We will provide periodic reports of progress as requested or as specified in the Order Form. As appropriate, We will provide recommendations to maximise and optimise the impact of Your Social Media Marketing package based on applicability, projected return on investment (ROI) and time available in the Scope.
- 2.5 At Our discretion, We will cap the aggregate hours spent fulfilling the Scope but at no less than any specified amount agreed to in the Order. We will strive during term to reach as many goals in this Agreement's Scope as possible during the contracted time, and in Our experience, the objectives set in the Order are reachable. However, because some objectives in the marketing plan are contingent on Your cooperation and contribution, such as content, both Parties understand that an additional agreement may be appropriate as necessary.

### 3. Guarantees and Limitation of Liability

- 3.1 We have no control over the policies of social media platforms with respect to the type of sites and/or content that they accept now or in the future. Your site may be excluded from any platform at any time at the sole discretion of the social media platform. We will resubmit any Works as soon as practicable.
- 3.2 You acknowledge the following:
  - (a) Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, We do not guarantee any number of online followers or the rank of ad placement through, for example, Facebook advertising;
  - (b) We do not guarantee immediate results as some time is needed to develop and grow an online presence after creation or new management of Your social media platforms;
- 3.3 We are not responsible for changes made to the social media platforms by other parties that adversely affect Your online popularity and outreach.
- 3.4 Additional services not listed herein shall be charged at Our current hourly rate or such fix fee as We shall agree with You in writing in the Order Form.
- 3.5 We are not responsible for the effect and/or impact if You overwrite, change, or in any way modify the social media marketing services We provided either during or after the Agreement. Additional social media marketing services will require additional Charges.

### 4. Term and Termination

- 4.1 This Appendix applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this Appendix or Agreement, including failure of timely payment, then We reserve the right to terminate the Works pursuant to Section 10 of the Agreement.
- 4.2 Where Your right to use the Appendix has terminated under Section 4.1, it reinstates:
  - (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or

- (b) upon express reinstatement by Us; or
- (c) upon the terms and conditions of Section 10 of the Agreement.

For the avoidance of doubt, this Section 4.2 does not affect any right We may have to seek remedies for Your violations of related directly or indirectly to this Appendix..

4.3 This Appendix survives the termination of the Agreement.

## Appendix G - Copywriting

**By purchasing the services of Copywriting with Us, You accept and agree to be bound by the terms and conditions of this Appendix G - Copywriting. You are granted use in consideration of Your acceptance of these terms and conditions, and We grant You such rights in consideration of benefits We receive from these terms and conditions.**

### 1. Incorporation

This Appendix references and incorporates in full the Agreement.

### 2. Scope

- 2.1 We agree to design and develop copywriting for the estimated total price outlined in the Order Form on which an agreed payment is specified.
- 2.2 We are authorised and have the experience and ability to design and develop copywriting for You.
- 2.2 We will design and develop copywriting according to the agreed plan outlined in the Order. We will provide one initial delivery of a complete copy document plus the opportunity for You to make up to two (2) rounds of revisions. If You would like to make further design revisions, You may commission Us at the rate of \$400 per half day or as quoted at that time.
- 2.3 As per the Terms of the Agreement, You agree to provide Us with everything We need to complete the Works, including, but limited to, text, images, and other information as and when We need it, and in the requested format. Provided materials by You remain Your copyright and intellectual property, and upon the completion or termination of the Agreement, they will be returned to You.
- 2.4 You agree to review Our Works, provide feedback and sign-off approval in a timely manner.
- 2.5 Upon final payment, We will return Your materials and provide You with the copyright of the Works. Until final payment is received, We retain in full at Our discretion Our rights and interests in the Works.
- 2.6 Additional services not listed herein shall be charged at Our current hourly rate or such fix fee as We shall agree with You in writing in the Order Form.

### 3. Guarantees and Limitation of Liability

- 3.1 As We have no control over the policies of search engines with respect to the type of sites and/or content that they accept now or in the future, We do not guarantee that the copywriting We provide to You will be searched, indexed and ranked by any search engine. As such, You acknowledge the following:
  - (a) Due to the competitiveness of some keywords/phrases, ongoing changes in search engine ranking algorithms, and other competitive factors, We do not guarantee top positions or consistent top ten (10) positions for any particular keywords, phrase or search term; and
  - (b) We do not guarantee immediate results as some search engines and directories may take as long as two (2) to four (4) months to search, index and rank Your site accordingly based on the content of the copywriting.
- 3.2 We are not responsible for changes made to the copywriting by other parties that adversely affect the search engine rankings of Your webs site.
- 3.3 We are not responsible for the effect and/or impact if You overwrite, change, or in any way modify the copywriting We provided either during or after the Agreement. Additional copywriting services will require additional Charges.

### 4. Term and Termination

- 4.1 This Appendix applies for the term as either stated on the Order Form or in perpetuity. However, if You fail to comply with this Appendix or Agreement, including failure of timely payment, then We reserve the right to terminate the Works pursuant to Section 10 of the Agreement.
- 4.2 Where Your right to use the Appendix has terminated under Section 4.1, it reinstates:
  - (a) automatically as of the date the violation is cured, provided it is cured within 30 days of Your discovery of the violation; or
  - (b) upon express reinstatement by Us; or
  - (c) upon the terms and conditions of Section 10 of the Agreement.For the avoidance of doubt, this Section 4.2 does not affect any right We may have to seek remedies for Your violations of related directly or indirectly to this Appendix..
- 4.3 This Appendix survives the termination of the Agreement.