M Business and Marketing Solutions – Terms and Conditions

1. Definitions

1.1 "M Business" means M Business and Marketing Solutions Pty Ltd (as trustee for Flatrock Family Trust) T/A M Business and Marketing Solutions, its successors and assigns, or any person acting on behalf of, and with the authority of, M Business and Marketing Solutions Pty Ltd (as trustee for Flatrock Family Trust) T/A M Business and Marketing Solutions.

1.2 "Client" means the person/s requesting M Business to provide the Services as specified in any invoice, document or order, and if there is more than one person requesting the Services is a reference to each person jointly and severally.

1.3 "Services" means all Goods (including content, any printed or virtual material, samples, Web Site, brands, designs, images, advertising, data, graphics, pictures, trademarks, software, applications, manuals, and other associated documentation and/or goods) and/or Services (which includes any advice or recommendations, consultancy, hosting, backups, design and/or maintenance of web sites, brands, designs, or advertising, project management work, brand integration, and strategising and analytical Services, etc.) provided by M Business to the Client at the Client's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other).

1.4 "Web Site" means a location which is accessible on the Internet through the World Wide Web and which provides multimedia content via a graphical User Interface.

1.5 "Charges" shall mean the cost of the Services as agreed between M Business and the Client subject to clause 5 of this contract.

2. Acceptance

2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts Services provided by M Business.

2.2 These terms and conditions may only be amended with M Business' consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and M Business.

2.3 None of M Business' agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the Director(s) of M Business in writing nor is M Business bound by any such unauthorised statements.

2.4 Once accepted by the Client, M Business' quotation shall be deemed to interpret correctly the Client's instructions, whether written or verbal. Where verbal instructions only are received from the Client, M Business shall not be responsible for errors or omissions due to oversight or misinterpretation of those instructions.

2.5 Any advice, recommendations, information, assistance or service provided by M Business in relation to Services provided is given in good faith, is based on information provided to M Business, and M Business' own knowledge, and experience. Whilst it shall be the responsibility of the Client to confirm the accuracy and reliability of the same in light of the use to which the Client makes or intends to make of the Services, human error is possible under these circumstances, and M Business shall make all effort to offer the best solution to the Client.

2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Change in Control

3.1 The Client shall give M Business not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by M Business as a result of the Client's failure to comply with this clause.

4. Authorised Representative

4.1 Unless otherwise limited as per clause 4.2, the Client agrees that should the Client introduce any third party to M Business as the Client's duly authorised representative, that once introduced that person shall have the full authority of the Client to order any Services, and/or to request any variation thereto, on the Client's behalf (such authority to continue until all requested Services have been provided, or the Client otherwise notifies M Business in writing that said person is no longer the Client's duly authorised representative).

4.2 In the event that the Client's duly authorised representative as per clause 4.1 is to have only limited authority to act on the Client's behalf then the Client must specifically and clearly advise M Business in writing of the parameters of the limited authority granted to their representative.

4.3 The Client specifically acknowledges and accepts that they will be solely liable to M Business for all additional costs incurred by M Business (including M Business' profit margin) in providing any Services, and/or variation/s thereto, requested by the Client's duly authorised representative (subject always to the limitations imposed under clause 4.2 (if any)).

5. Charges and Payment

5.1 At M Business' sole discretion the Charges shall be either:
(a) as indicated on any invoice provided by M Business to the Client; or
(b) M Business' quoted Charges (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days; and/or
(c) as per M Business' set non-refundable monthly Charges for the Services ("**Plan**"), which will be as stipulated (including when due and payable) by M Business in the Plan.

5.2 M Business reserves the right to vary the Charges:
(a) if a variation to the plan of scheduled Services, or Client specifications is requested (including, but not limited to, additional work required due to hidden or unidentifiable difficulties not evident prior to commencement of the Services, any request to investigate and/or repair any faults or defects outside M Business' normal business hours or any delay caused by the Client in contravention of clause 8.2, etc.);
(b) as a result of increases beyond M Business' reasonable control in the cost of materials or labour (e.g. third-party network operator or M Business' costs (e.g. google) or fluctuations in currency exchange rates, etc.). Where the Client is on a Plan, M Business will provide one (1) month's written notice to the Client of any variation to the Charges thereof.

5.3 At M Business' sole discretion, a non-refundable deposit may be required.

5.4 Time for payment for the Services being of the essence, the Charges will be payable by the Client on the date/s determined by M Business, which may be:
(a) on completion of the Services;
(b) by way of instalments/progress payments in accordance with M Business' payment schedule;
(c) the date specified on any invoice or other form as being the date for payment; or
(d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Client by M Business.

5.5 Payment may be made by bank cheque, Ezidebit, or by any other method as agreed to between the Client and M Business.

5.6 Unless otherwise stated the Charges do not include GST. In addition to the Charges the Client must pay to M Business an amount equal to any GST M Business must pay for any provision of Services by M Business under this contract or any other agreement. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Charges. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Charges, except where they are expressly included in the Charges.

6. Provision of the Services

6.1 Any time specified by M Business for provision of the Services is an estimate only and M Business will not be liable for any loss or damage incurred by the Client as a result of provision being late. However both parties agree that they shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that M Business is unable to provide the Services as agreed solely due to any action or inaction of the Client, then M Business shall be entitled to charge the Client additionally for re-providing the Services at a later time and date.

6.2 The Client acknowledges that, due to the nature of digital display, technical difficulties may arise which could prevent the provision of the Services; and the Client, therefore, agrees to indemnify M Business against any costs or losses incurred by the Client as a result of this.

7. Risk and Limitation of Liability for Client Data

7.1 The Client acknowledges and agrees that M Business shall not be held responsible or liable for:
(a) anything related to the Web Site or any other Services provided;
(b) any breach of the Client of any Acts, legislation or regulations in its use of the Services, unless due to the negligence of M Business;
(c) any loss, corruption, or deletion of files or data (including, but not limited to software programmes) resulting from illegal hacking or Services provided by M Business. Whilst M Business will endeavour to restore the Web Site, files or data (at the Client's cost), and it is the sole responsibility of the Client to back-up any data which they believe to be important, valuable, or irreplaceable prior to M Business providing the Services. The Client accepts full responsibility for the Client's software and data and M Business is not required to advise or remind the Client of appropriate backup procedures.

7.2 The Client acknowledges that any advice or recommendations by M Business are provided on the basis of M Business' industry knowledge and experience only and shall not be deemed as specialist advice.

7.3 M Business, its directors, agents or employees will not be liable in any way for any form of loss or damage of any nature whatsoever suffered, whether arising directly or indirectly, by the Client or any person related to or dealing with the Client out of, in connection with or reasonably incidental to the provision of the Services by M Business to the Client.

7.4 The Services are provided on an "as is, as available" basis. M Business specifically disclaims any other warranty, express or implied, including any warranty of merchantability or fitness for a particular purpose.

7.5 *Public Access:*
(a) The Client understands that by placing information on the Web Site, such information may be accessible to all internet users. M Business does not (unless expressly requested by the Client) limit or restrict access to such information, nor protect such information from copyright infringement or other wrongful activity. The Client assumes full responsibility for their use of the Services, and it is the Client's sole responsibility to evaluate the accuracy, completeness and usefulness or all opinions, advice, services, and other information, and the quality and merchantability of all Services provided by M Business, or on the internet generally.

8. Web Site Development

8.1 *M Business' Responsibilities:*
(a) Upon acceptance of M Business' quotation, and in accordance with this agreement, M Business will:
(i) use its best endeavours to develop the Web Site in accordance with the Client's instructions and specifications; and
(ii) to the extent specified in the Client's instructions and specifications, negotiate and procure any third-party agreements on behalf of the Client.
(b) The Client acknowledges that the development of the Web Site by M Business is based upon current technology platforms (e.g. internet browsers, mobile, android, etc.), and therefore M Business cannot guarantee that Web Site features and /or content will display correctly, and that the overall visual experience will be the same, for use by either superseded or presently undeveloped technology.

8.2 *Client's Responsibilities:*
(a) The Client will, in addition to any other obligations expressed in this agreement, have the following responsibilities:
(i) provision of all content (including data, logos, designs and/or graphic and related materials) to be incorporated into the Web Site;
(ii) provision of any other information, ideas or suggestions which are to be expressly considered by M Business in developing the Web Site.
(b) The Client will ensure that M Business is given such information and assistance as M Business reasonably requires to enable M Business to construct and maintain the Web Site.
(c) It shall be the Client's responsibility to ensure that any specific requirements they may have for mobile web browsers is included in the brief, as, unless otherwise specified therein, the choice of web browsers and technology used in the development of the Web Site shall be at the sole discretion of M Business. In the event that additional Services are requested, or required (as per clause 8.1(b)), in order to meet any specific requirements for mobile web browsers, after M Business has commenced work on the Web Site, shall be treated as a variation to the Charges, and a strict estimation of further work required shall be submitted to the Client for approval before proceeding with the variation work.
(d) M Business will not be responsible for, and accepts no liability for, any deficiency or alleged deficiency in the Web Site which is attributable to:
(i) incorrect information provided by the Client, either pursuant to this clause or otherwise; or
(ii) failure by the Client to provide relevant information, either pursuant to this clause or otherwise; or
(iii) any third-party products and/or services used by M Business in creation of the Web Site.

8.3 *Additional Services:*
(a) M Business agrees that there will be no charge in the preparation of the initial quotation, which may include Client discussions, project scoping, research, testing and business analysis, etc. However, in some instances the aforementioned services may be charged to the Client additionally (at M Business' sole discretion). In the event the Client requires proofs, mock-ups, layouts, samples or dummies or printed, typewritten or other good copy and/or edits, this shall be invoiced at M Business' hourly rate unless specified otherwise in the initial quotation, therefore, this variation shall be detailed on the invoice as per clause 5.2.
(b) All work carried out whether experimentally or otherwise at the Client's request will be charged to the Client.
(c) Any tabulated work and/or foreign language included in the job but not contained in the manuscript originally submitted for the purpose of estimating may be charged to the Client and shown as extras on the invoice.
(d) Unless otherwise agreed, the Client shall bear the cost of fonts, or colour proofs, or artwork, specially bought at the Client's request for the job.
(e) Where the performance of any contract with the Client requires M Business to obtain products and/or services from a third party, the contract between M Business and the Client shall incorporate, and shall be subject to, the conditions of supply of such products and/or services to M Business, and the Client shall be liable for the cost in full including M Business' margin of such products and/or services.
(f) Whilst every effort will be taken by M Business to match virtual colours with physical colours, M Business will take no responsibility for any variation between virtual sale samples and either the virtual sale sample displayed on the Client's computer and/or the final product. Should a physical sample be required this will be provided on request by the Client and will be charged for as an extra and charged contra against final invoice.

8.4 *Proof Reading:*
(a) Whilst every care is taken by M Business to carry out the instructions of the Client, it is the Client's responsibility to undertake a final proof reading. M Business shall be under no liability whatever for any errors not corrected by the Client in the final proof reading. Should the Client's alterations require additional proofs this shall be invoiced as an extra.
(b) When style, type or layout is left to M Business' judgement and the Client makes further alterations, this will be invoiced as an extra.

8.5 *Client's Property and Materials:*
(a) In the case of property and materials left with M Business without specific instructions, M Business shall be free to dispose of them at the end of twelve (12) months after their receiving them and to accept and retain the proceeds, if any, to cover their own costs in holding and handling them.
(b) Where materials or equipment are supplied by the Client, M Business accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.

9. Hosting and Other Services

9.1 "Live Date" means the date in which M Business provides the Services as per initial acceptance of M Business' quotation.

9.2 Services shall only be used by the Client for lawful purposes. Any use which violates any applicable national or international laws is strictly prohibited (e.g. posting or transmitting any unlawful, threatening, abusive, libellous, defamatory, obscene, offensive, indecent, pornographic, profane, or otherwise objectionable information of any kind – including, but not limited to, any transmission constituting or encouraging conduct that would constitute a criminal offense or give rise to civil liability).

9.3 M Business will, at its sole cost and expense:
(a) host the Web Site and/or provide the agreed service;
(b) ensure that from the Live Date:
(i) sufficient capacity is maintained on M Business' network and servers to enable service levels to be maintained. However, the Client acknowledges that the default for data for emails is 250 MB, and any extra data may incur additional charges, according to needs of the Client; and
(ii) the Web Site and/or agreed service is accessible to users in accordance with the agreed service levels (subject to reasonable downtime for server maintenance which has been notified to the Client (either in writing or electronically) prior to the commencement of the downtime); and
(c) provide the Client with the agreed access to perform maintenance services.

9.4 M Business will not:
(a) provide email hosting services, which is the responsibility of the Client; and
(b) provide email configuration services. M Business can create the email address and provide the use of the server's webmail, but is the Client's responsibility to set up on its machine; and
(c) alter or amend, or permit any person to alter or amend the Web Site without the written consent of the Client.

9.5 M Business will make best efforts to ensure that the Client receives continual and uninterrupted Services during the term of this agreement, however M Business does not in any way warrant or otherwise guarantee:
(a) the availability of the Services, which shall be subject to regularly scheduled maintenance cycles, and many events/circumstances beyond the control of M Business. In no event though, shall M Business be liable to the Client for damages (including loss of income) resulting from or in relation to any failure or delay (including server downtime, programming errors, lack of connection or slow connection) of M Business to provide Services under this agreement, or any loss of data, if such delays or failures are due to circumstances beyond M Business' control. Such a failure or delay shall not constitute a default under this agreement; and
(b) the Services will be completely secure, and the Client acknowledges that there are inherent risks in Internet connectivity that could result in the loss of the Client's privacy, confidential information and intellectual property; and
(c) to retain any data backup(s) for longer than the agreed data retention period of two (2) calendar weeks. In all events, the Client releases M Business from liability for loss of data to the extent that the data has changed since the time that M Business required notification from the Client in the two (2) calendar week period.

9.6 *Domain Registration*
(a) M Business cannot guarantee the requested domain name is available, or able to registered.
(b) It is the Client's responsibility to keep the domain login details secure, and renew the domain name (when required). M Business will not be held responsible or liable if the domain name expires, and ceases to be available or registered.

10. Search Engine Optimisation (SEO)

10.1 Although M Business shall use their knowledge and experience to gain the best results possible, M Business shall not be responsible for, and gives no guarantee of, the quality of visitor or the position / page rank or volume of visits to the Web Site due to search engine algorithm changes or otherwise, or warranty that the Web Site will be effective in promoting the Client's business or result in any increase in sales of the products/services of the Client. Periodic reporting will be sent to the Client's nominated email address, at the sole discretion of M Business.

11. Defects, Warranties and the Competition and Consumer Act 2010 (CCA)

11.1 The Client must inspect M Business' Services on completion and must within seven (7) days notify M Business in writing of any evident defect in the Services provided (including M Business' workmanship) or of any other failure by M Business to comply with the description of, or quote for, the Services which M Business was to provide. The Client must notify any other alleged defect in M Business' Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow M Business to review the Services that were provided.

11.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions ("**Non-Excluded Guarantees**").

11.3 M Business acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

11.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, M Business makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. M Business' liability in respect of these warranties is limited to the fullest extent permitted by law.

11.5 If the Client is a consumer within the meaning of the CCA, M Business' liability is limited to the extent permitted by section 64A of Schedule 2.

11.6 If M Business is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then M Business may refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Client which were not defective.

11.7 If the Client is not a consumer within the meaning of the CCA, M Business' liability for any defective Services is:
(a) limited to the value of any express warranty or warranty card provided to the Client by M Business at M Business' sole discretion;
(b) limited to any warranty to which M Business is entitled, if M Business did not manufacture the Goods;
(c) otherwise negated absolutely.

11.8 Notwithstanding clauses 11.1 to 11.7 but subject to the CCA, M Business shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
(a) the Client failing to properly maintain or store the Goods;
(b) the Client using the Goods for any purpose other than that for which they were designed;
(c) the Client continuing to use the Goods after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
(d) interference with the Services by the Client or any third party without M Business' prior approval;
(e) the Client failing to follow any instructions or guidelines provided by M Business;
(f) fair wear and tear, any accident, or act of God.

12. Intellectual Property and Confidentiality

12.1 The Client shall indemnify M Business against any claims by third parties for patent, trademark, design or copyright infringement directly arising out of the design, workmanship, material, construction, or use of the Goods or any other deficiency therein. Where the Client has supplied drawings, sketches, files or logo's to M Business, the Client warrants that the drawings, sketches, files or logo's do not breach any patent, trademark, design or copyright, and the Client agrees to indemnify M Business against any action taken by a third party against M Business.

12.2 Notwithstanding anything herein, the Intellectual Property Rights in M Business' Services do not vest in the Client and there is no assignment of these Intellectual Property Rights to the Client. M Business hereby grants to the Client an irrevocable, non-exclusive and non-transferable licence to use and reproduce the Services for the purposes of this agreement only, and solely for the operation of the Client's business however, the Client shall not use nor make copies of such Intellectual Property in connection with any work or business other than the work or business specified in any quote M Business unless express approval is given in advance by M Business. Such license shall terminate on default of payment or any other terms of this agreement by the Client.

12.3 Each party agrees to treat all information and ideas communicated to it by the other confidentially and agree not to divulge it to any third party, without the other party's written consent. The parties will not copy any such information supplied, and will either return it or destroy it (together with any copies thereof) on request of the other party.

13. Default and Consequences of Default

13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at M Business' sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

13.2 If the Client owes M Business any money the Client shall indemnify M Business from and against all costs and disbursements incurred by M Business in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, M Business' contract default fee, and bank dishonour fees). Without prejudice to any other remedies M Business may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions M Business may, at their sole discretion (without being liable to the Client for any loss or damage the Client suffers because M Business has exercised its rights under this clause):
(a) suspend or terminate this agreement and/or any of the Services without notice or refund; or
(b) make an additional charge to the Client; or
(c) block access to any part of the Services.

14. Cancellation

14.1 M Business may cancel these terms and conditions or cancel provision of Services at any time before the Services have commenced by giving written notice. On giving such notice M Business shall repay to the Client any money paid by the Client for the Services. M Business shall not be liable for any loss or damage whatever arising from such cancellation.

14.2 In the event that the Client cancels provision of the Services the Client shall be liable for any and all loss and any costs incurred (whether direct or indirect) by M Business up to the date of cancellation and/or as a direct result thereof (including, but not limited to, any loss of profits).

15. Suspension and Termination

15.1 Either party may terminate this agreement by providing the other party thirty (30) days prior written notice thereof, after which time the Services (and this agreement) will automatically terminate at the end of the then current month. Any termination of this agreement by the Client without the appropriate notice will render the Client liable to pay the Charges due in respect of the notice period as stated herein.

15.2 Without prejudice to M Business' other remedies at law, M Business shall be entitled to suspend or terminate all, or any part, of the Services, with, or without notice, to the Client, and all amounts owing to M Business shall, whether or not due for payment, become immediately payable if:
(a) any payment to M Business becomes overdue, or in M Business' opinion the Client will be unable to make a payment when it falls due;
(b) the Client's account is in dispute, or the subject of a dispute resolution procedure, court order, judgement, finding or determination; or
(c) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client; or
(e) where the Client fails to comply with any provision of these terms and conditions, or any other policy, directive or requirement notified to the Client by M Business; or
(f) where there is evidence of fraudulent, illegal, defamatory or offensive activities, or evidence of any other activity that is in breach of a third party's rights.

15.3 In addition to the M Business' rights to suspend and/or terminate the Services in accordance with clause 15.3, M Business can suspend, terminate or restrict the Services temporarily, if M Business the Services suffers a technical failure and M Business reasonably believe it is desirable to do so in order to maintain or restore part of the network. M Business will try and perform maintenance and repair work at time that will cause the least inconvenience to the Client. M Business will not charge the Client for (and rebate if necessary) any Charges during any period of suspension exceeding twenty-four (24) hours. If M Business have no alternative but to terminate the Services due to necessary maintenance or restoration of any part of the network, M Business will not charge the Client any applicable termination fee.

15.4 Where this agreement is terminated for any reason, the Services will automatically terminate and the Client shall lose all right to use the Web Site and products, and shall forthwith deliver any Goods to M Business and destroy all copies made. The Client shall certify in writing that the copies have been destroyed.

15.5 Upon termination of this agreement, M Business will immediately delete all files and content relating to the Client and the Services provided thereto.

15.6 It is the Client's responsibility to make arrangements for the transfer of their data prior to the termination date. M Business accepts no liability for any loss or damage incurred by the Client as a result of the deletion of such data.

15.7 In the event the Services are suspended as per, the Services can be re-instated (at M Business' sole discretion) under a new contract at the prevailing rates; however no credits or discounts will be granted, and reinstatement costs shall apply.

15.8 Any suspension of the Services by M Business in accordance with clause 13.3 will not constitute a termination of the agreement and M Business may require the Client to pay a reconnection fee to recommence the Services together with the relevant Charges.

16. Privacy Act 1988

16.1 The Client agrees for M Business to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by M Business.

16.2 The Client agrees that M Business may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
(a) to assess an application by the Client; and/or
(b) to notify other credit providers of a default by the Client; and/or
(c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
(d) to assess the credit-worthiness of the Client including the Client's repayment history in the preceding two years.

16.3 The Client consents to M Business being given a consumer credit report to collect overdue payment on commercial credit.

16.4 The Client agrees that personal credit information provided may be used and retained by M Business for the following purposes (and for other agreed purposes or required by):
(a) the provision of Services; and/or
(b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
(c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
(d) enabling the collection of amounts outstanding in relation to the Services.

16.5 M Business may give information about the Client to a CRB for the following purposes:
(a) to obtain a consumer credit report;
(b) allow the CRB to create or maintain a credit information file about the Client including credit history.

16.6 The information given to the CRB may include:
(a) personal information as outlined in 16.1 above;
(b) name of the credit provider and that M Business is a current credit provider to the Client;
(c) whether the credit provider is a licensee;
(d) type of consumer credit;
(e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
(f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and M Business has been paid or otherwise discharged and all details surrounding that discharge(e.g. dates of payments);
(g) information that, in the opinion of M Business, the Client has committed a serious credit infringement;
(h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars ($150).

16.7 The Client shall have the right to request (by e-mail) from M Business:
(a) a copy of the information about the Client retained by M Business and the right to request that M Business correct any incorrect information; and
(b) that M Business does not disclose any personal information about the Client for the purpose of direct marketing.

16.8 M Business will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law.

16.9 The Client can make a privacy complaint by contacting M Business via e-mail. M Business will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.

17. Liability

17.1 The Client agrees that, in view of their nature, the Client's use of the Services is at their sole risk. Whilst M Business will endeavour to ensure that the Services are of a high quality, neither M Business (nor any of their agents, contractors, licensees, employees or information providers involved in providing the Services) give any guarantee that the Services will be uninterrupted or free from error. Where necessary for commercial, technical or other reasons:
(a) a network or service provider connected to the Services may suspend or terminate its connection to the Services; and
(b) the Services may suspend or terminate their connection to another network or service provider.

17.2 The Client agrees that any such suspension or termination referred to in clause 17.1(b) above will not constitute a breach of this agreement by M Business and that the Services are provided on an "as is" basis without guarantee of any kind.

17.3 The Client further agrees that M Business will not be held liable for any costs, expenses, losses, damages or other liabilities (howsoever arising) which you may incur as a result of a suspension of the Services in accordance with clause 17.1(a) anove.

17.4 The Client acknowledges that the Internet is separate from the Services and that use of the Internet is at their own risk and subject to any applicable laws. M Business has no responsibility for any goods, services, information, software, or other materials which the Client may obtain from a third party when using the Internet.

17.5 The Client also acknowledges that M Business may exercise editorial control over the content of their servers, but that M Business does not have the resources to ensure, nor are they capable of checking, the full content of their servers at all times. Neither M Business (nor any of their agents, contractors, licensees, employees and information providers involved in providing the Services) are able to control the content of the Internet. The Client, therefore, agrees that M Business shall not be held responsible for the publication, transmission or reception of any defamatory material or information of any kind, other than information which is inserted by M Business. The Client specifically acknowledges that M Business has given no warranties as to the quality, content or accuracy of information received through, or as a result of the use of, the Services.

17.6 Subject to clause 11, M Business shall be under no liability whatsoever to the Client for any indirect, incidental, special and/or consequential loss and/or expense, claim and/or cost (including legal fees and commissions, loss of profit, business, contracts, opportunity, goodwill, reputation and/or anticipated saving) and/or for any loss or corruption of data suffered by the Client arising out of a breach by M Business of these terms and conditions , caused by any failure by the Client to comply with their obligations under this agreement, or that arise from any claim relating to the Services by any person that the Client authorises to use the Services, or where due to server downtime or programming errors (alternatively M Business' liability shall be limited to damages which under no circumstances shall exceed the Charges).

17.7 M Business will not be liable to the Client for any loss or damage the Client suffers because M Business has exercised its rights under this agreement.

18. Title

18.1 M Business and the Client agree that the Client's obligations to M Business for the supply of Services shall not cease (and ownership of any Goods shall not pass) until:
(a) the Client has paid M Business all amounts owing to M Business for the Services; and
(b) the Client has met all other obligations due by the Client to M Business in respect of all contracts between M Business and the Client.

18.2 Receipt by M Business of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised, and until then M Business' ownership or rights in respect of the Services, and this agreement, shall continue.

18.3 It is further agreed that, until ownership of the Goods passes to the Client in accordance with clause 18.1:
(a) the Client is only a bailee of the Goods and must return the Goods to M Business on request.
(b) the Client holds the benefit of the Client's insurance of the Goods on trust for M Business and must pay to M Business the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed.
(c) the Client must not sell, dispose, or otherwise part with possession of the Goods other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Goods then the Client must hold the proceeds of any such act on trust for M Business and must pay or deliver the proceeds to M Business on demand.
(d) the Client should not convert or process the Goods or intermix them with other goods but if the Client does so then the Client holds the resulting product on trust for the benefit of M Business and must sell, dispose of or return the resulting product to M Business as it so directs.
(e) the Client irrevocably authorises M Business to enter any premises where M Business believes the Goods are kept and recover possession of the Goods.
(f) M Business may recover possession of any Goods in transit whether or not delivery has occurred.
(g) the Client shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of M Business.
(h) M Business may commence proceedings to recover the Charges notwithstanding that ownership of the Goods has not passed to the Client.

19. Personal Property Securities Act 2009 ("PPSA")

19.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.

19.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods, and/or any monetary obligation of the Client to M Business for Services, that have previously been provided (if any), and that will be provided in the future, by M Business to the Client.

19.3 The Client undertakes to:
(a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which M Business may reasonably require to;
(i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
(ii) register any other document required to be registered by the PPSA; or
(iii) correct a defect in a statement referred to in clause 19.3(a)(i) or 19.3(a)(ii);
(b) indemnify, and upon demand reimburse, M Business for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;
(c) not register a financing change statement in respect of a security interest without the prior written consent of M Business;
(d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods in favour of a third party without the prior written consent of M Business.

19.4 M Business and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.

19.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.

19.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.

19.7 Unless otherwise agreed to in writing by M Business, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.

19.8 The Client must unconditionally ratify any actions taken by M Business under clauses 19.3 to 19.5.

19.9 Subject to any express provisions to the contrary nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

20. Security and Charge

20.1 In consideration of M Business agreeing to provide Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).

20.2 The Client indemnifies M Business from and against all M Business' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising M Business' rights under this clause.

20.3 The Client irrevocably appoints M Business and each director of M Business as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 20 including, but not limited to, signing any document on the Client's behalf.

21. General

21.1 The failure by M Business to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect M Business' right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland, the state in which M Business has its principal place of business, and are subject to the jurisdiction of the Toowoomba Court in that state.

21.3 M Business may license or sub-contract all or any part of its rights and obligations without the Client's consent.

21.4 The Client agrees that M Business may amend these terms and conditions at any time. If M Business makes a change to these terms and conditions, then that change will take effect from the date on which M Business notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for M Business to provide Services to the Client.

21.5 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

21.6 The Client warrants that it has the power to enter into this agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this agreement creates binding and valid legal obligations on it.

Please note that a larger print version of these terms and conditions is available from M Business on request.

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