

1. Definitions

- 1.1 **"Client"** means the person/s, entities or any person acting on behalf of and with the authority of the Client requesting IFB to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Client, is a reference to each Client jointly and severally; and
 - (b) if the Client is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Client's executors, administrators, successors and permitted assigns.
- 1.2 **"Confidential Information"** means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, **"Personal Information"** such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook, Twitter or any social media details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.3 **"Contract"** means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.4 **"Cookies"** means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. **If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the right to enable / disable the Cookies by selecting the option to enable / disable through their browser, prior to ordering Services via the website.**
- 1.5 **"Copy"** shall mean any content, advertising materials (including but not limited to, manuscript, general copy, graphics and other digital display material or content) which are provided to IFB for insertion into an IFB publication or display on any IFB website.
- 1.6 **"GST"** means Goods and Services Tax as defined within the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).
- 1.7 **"IFB"** means Octomedia Pty Ltd T/A Inside Franchise Business, its successors and assigns or any person acting on behalf of and with the authority of IFB.
- 1.8 **"Incidental Items"** means any goods, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by IFB in the course of it conducting, or supplying to the Client, any Services.
- 1.9 **"Prohibited Content"** means any content on any media (including advertising, posts, comments, etc.) that:
- (a) is, or could reasonably be considered to be, in breach of the Broadcasting Services Act 1992; the Fair Trading Acts of the applicable States and Territories of Australia and the Competition and Consumer Act 2010 (CCA); or any other applicable law or applicable industry code; or
 - (b) contains, or could reasonably be considered to contain, any misrepresentations; or is, or could reasonably be considered to be, misleading or deceptive, likely to mislead or deceive or otherwise unlawful; or
 - (c) is, or could reasonably be considered to be, in breach of any person's Intellectual Property Rights.
- 1.10 **"Price"** means the price payable (plus any Goods and Services Tax ("GST") where applicable) for the Services as agreed between IFB and the Client in accordance with clause 5 of this Contract.
- 1.11 **"Services"** means all Incidental Items (including copy, any printed or virtual material, samples, brands, designs, drawings, images, graphics, advertising, publications, data, files, information, and/or other associated documentation and/or goods) and/or Services (which includes any advice or recommendations, graphic design, consultancy, marketing assessment and planning, brand development, integration or strategies, analysis, distribution, project management and events or service/media sourcing, etc.) provided by IFB to the Client at the Client's request from time to time (where the context so permits the terms 'Incidental Items' or 'Services' shall be interchangeable for the other).
- 1.12 **"SNT"** means any Social Network Tool being a social media platform and/or application which is accessible on the internet through the World Wide Web and which provides multimedia content via a graphical user interface (including, but not limited to Facebook, Twitter, LinkedIn, Pinterest, etc.).
- 1.13 **"Advertising Plan"** means the supply of Services, subject to clause 6, for a specified period, as agreed between the two parties.
- 1.14 **"Website"** means a location which is accessible on the Internet through the World Wide Web and which provides multimedia content via a graphical User Interface.

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 IFB.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 In the event that the Client's credit account exceeds the payment terms, IFB reserves the right to refuse delivery.
- 2.5 None of IFB's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by Octomedia Pty Ltd T/A Inside Franchise Business or IFB's official spokesperson in writing, nor is IFB bound by any such unauthorised statements.
- 2.6 The Client acknowledges and agrees that:
- (a) Services are provided on the basis of specifications, information and instructions provided by the Client to IFB (whether written or verbal). The Client acknowledges that it is their responsibility to ensure that such are detailed sufficiently to satisfy IFB's requirements of interpretation and understanding, as once accepted by the Client, IFB's quotation shall be deemed to interpret correctly those specifications, information and instructions; and
 - (b) any expected or estimated outcomes concerning increased sales or market share achieved by the Client derived from marketing activities undertaken by IFB, expressed in consultation or estimates, are speculative and in no way constitute a guarantee. In addition, where the Client makes changes to their website, social media pages or advertising campaign information without prior discussion with IFB, any such changes may negatively affect any costs and results; and
 - (c) IFB does not guarantee the SNT's performance; and

- (d) display on the SNT does not guarantee the availability of any particular goods; therefore, all orders placed through the Client's website as a result of any post or other communication posted shall be subject to confirmation of acceptance by the Client; and
 - (e) the ability to post communications on a SNT may be unavailable from time to time due to regularly scheduled maintenance and/or upgrades by the SNT provider; and
 - (f) there are inherent hazards in electronic distribution, and as such IFB cannot warrant against delays or errors in posts appearing on any SNT.
- 2.7 With changes in technology, changes in internet use and SNT visiting patterns, particular SNT availability/life cycle, IFB may suggest changes to the original proposal and recommend an alternative service. Any such suggestions and/or recommendations shall be communicated to the Client prior to implementation of any changes.
- 2.8 The Client further acknowledges and accepts that:
- (a) all SNT used in the provision of the Services are subject to the terms and condition of service of the third party provider and as such it is the Client's responsibility to be familiar with those terms and conditions; and
 - (b) in IFB's use of the Client's SNT, IFB is acting as the Client's agent and any liability arising from the use of the SNT account/s shall be the Client's responsibility.
- 2.9 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.

3. Errors and Omissions

- 3.1 The Client acknowledges and accepts that IFB shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by IFB in the formation and/or administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by IFB in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of IFB; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Client shall give IFB 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, change of trustees, or business practice). The Client shall be liable for any loss incurred by IFB as a result of the Client's failure to comply with this clause.

5. Price and Payment

- 5.1 At IFB's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by IFB to the Client; or
 - (b) (where the Client is on a "**Advertising Plan**"), the Client is required to pay monthly fees for the on-going provision of the Services to the Client by IFB as stipulated in this Contract; or
 - (c) IFB's quoted price (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.
- 5.2 IFB reserves the right to change the Price:
- (a) if a variation to the Services originally scheduled is requested; or
 - (b) in the event of increases to IFB in the cost of labour or materials which are beyond IFB's control.
- 5.3 Variations will be charged for on the basis of IFB's quotation, and will be detailed in writing, and shown as variations on IFB's invoice. The Client shall be required to respond to any variation submitted by IFB within ten (10) working days. Failure to do so will entitle IFB to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 5.4 At IFB's sole discretion a non-refundable deposit may be required.
- 5.5 Time for payment for the Services being of the essence, the Price will be payable by the Client on the date/s determined by IFB, which may be:
- (a) before delivery of the Services;
 - (b) for certain approved Clients shall be due fourteen (14) days following the date of the invoice;
 - (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 IFB.
- 5.6 Publication and/or release of the work done by IFB shall only be released once the funds have been cleared or honoured.
- 5.7 **Postponement:** the Client acknowledges and accepts that they may postpone the start date for a campaign only once without incurring a fee. Where the Client requests more than one postponement, IFB reserves the right to charge a reasonable fee for the delay in the commencement of the Services which shall be equivalent to twenty (20%) percent of the monthly advertising fee.
- 5.8 Payment may be made by cheque, bank cheque, electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Client and IFB.
- 5.9 IFB may in its discretion allocate any payment received from the Client towards any invoice that IFB determines and may do so at the time of receipt or at any time afterwards. On any default by the Client IFB may re-allocate any payments previously received and allocated. In the absence of any payment allocation by IFB, payment will be deemed to be allocated in such manner as preserves the maximum value of IFB's Purchase Money Security Interest (as defined in the PPSA) in the Services.
- 5.10 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by IFB nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.11 Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to IFB an amount equal to any GST IFB must pay for any supply by IFB under this or any other agreement for providing IFB's Services. 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 Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.

- 5.12 IFB and the Client agree that where it is intended that the ownership of Incidental Items is to pass to the Client that such ownership shall not pass until:
- (a) the Client has paid IFB all amounts owing for the Services; and
 - (b) the Client has met all other obligations due by the Client to IFB in respect of all contracts between IFB and the Client.
- 5.13 Receipt by IFB 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 IFB's ownership or rights in respect of the Incidental Items shall continue.

6. Advertising Plan

- 6.1 Where this Contract is for ongoing Services, the initial fixed Term ("**Term**") shall be specified as stated in IFB's Advertising Plan documentation and shall terminate in accordance with the initial timeframe stated. Any additional Term agreed to, will be subject to acceptance and signing under a separate contract.
- 6.2 Where termination of a Advertising Plan is effected by the Client with only one (1) month left to run and less than thirty (30) days' notice is given, the full balance due under the Contract term is due and payable as per clause 21.3(a)(i).
- 6.3 Failure by the Client to maintain their Advertising Plan fees, as agreed shall allow IFB to reserve their right to suspend the Services in accordance with clause 21.1.

7. Provision of the Services

- 7.1 Any time specified by IFB for delivery of the Services is an estimate only and IFB will not be liable for any loss or damage incurred by the Client as a result of delivery being late. However, both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that IFB is unable to supply the Services as agreed solely due to any action or inaction of the Client then IFB shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date.

8. Risk

- 8.1 Irrespective of whether IFB retains ownership of any Incidental Items all risk for such items shall pass to the Client as soon as such items are delivered to the Client and shall remain with the Client until such time as IFB may repossess the Incidental Items. The Client must insure all Incidental Items on or before delivery.
- 8.2 IFB reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Incidental Items as a result of the Client's failure to insure in accordance with clause 8.1.
- 8.3 The Client acknowledges and accepts that where new copy or instructions to repeat advertisements and/or publication have not been received from the Client by the copy deadline date, IFB, at their discretion, reserves the right to repeat any previously run copy, or to compose and/or enter a substitute copy for publication. Full rates and the costs associated with the production will be charged to the Client and shown as extras on the invoice.
- 8.4 IFB, 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 IFB to the Client.
- 8.5 All media releases and public announcements by either party relating to these terms and conditions, or the Services (including subject matter and related documents), shall be co-ordinated with the other party and approved jointly by the party prior to release.
- 8.6 IFB shall not be held responsible for the use of Services as referred to in by media, once information approved by the Client has been submitted to the media.
- 8.7 In the case of property and materials left with IFB without specific instructions, IFB shall be free to dispose of them at the end of thirty-six (36) months after their receiving them and to accept and retain the proceeds, if any, to cover their own costs in holding and handling them.

9. Search Engine Optimisation (SEO)

- 9.1 Although IFB shall use their knowledge and experience to gain the best results possible, IFB gives no guarantee of the quality of visitor or the position/page rank or volume of visits to the Website, or warranty that the Website 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 IFB.

10. Compliance of Laws

- 10.1 The Client and IFB shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities in the country where the Services are being provided or as per guidelines on any SNT. Furthermore, IFB warrants that any Services and/or content produced are fully compliant with said statutes, regulations and bylaws and SNT requirements.
- 10.2 The Client shall obtain (at the expense of the Client) all licenses and/or approvals pertaining to materials to be used in the communication copy and where required, any release documentation for the use of any digital imagery which may include people.

11. Confidential Information/Conflict of Interest

- 11.1 Both parties undertake to treat all information which is not in the public domain as confidential, and not to disclose, duplicate, use or permit the use of any information, documents or materials that are reasonably considered confidential regarding the other party's products, business, customers, clients, suppliers or methods of operation, at any time in any way, other than for the purpose of providing and using the Services according to this Contract, and shall use best endeavours to protect the confidentiality of the other party's confidential information which they may become aware.
- 11.2 Furthermore, the Client agrees to treat all information and ideas communicated to them (including Incidental Items), by IFB, ("**Confidential Information**") confidentially and agree not to divulge it to any third party, without written consent from IFB. The Client will not copy any such Confidential Information supplied, and will either return it or destroy it (together with any copies thereof) on request of IFB.
- 11.3 The Client agrees that they will ensure that they, and their employees and agents, will not disclose Confidential Information to any other person without the written consent of IFB.

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- 11.4 IFB is obliged to remain vigilant to, and to advise the Client of, any conflict of interest that may potentially impact or harm the Client. To avoid conflict of interest and commercial sensitivities, it is agreed by IFB that any and all information regards the Client (and their business, commercial agenda and employees) shall remain confidential at all times and shall only be disclosed in the event of legal order or obligation.
- 11.5 The Client is responsible for maintaining the confidentiality of the Access Details furnished by IFB to the Client. Furthermore, the Client agrees that IFB shall be in no way liable whatsoever for any unauthorised use of the Services.
- 11.6 The Client warrants that they shall take all reasonable steps to maintain the confidentiality of the Access Details, and shall notify IFB immediately when the Client, or a reasonable person in the position of the Client, has reason to believe that there has been unauthorised use of such Access Details.
- 11.7 The Client acknowledges that where it is determined by IFB (at their sole discretion) that any unauthorised third party has accessed IFB through the Client's Access Details, IFB reserves the right to restrict the Client's access to IFB pending resolution of such.
- 11.8 The obligations of confidentiality shall survive the finalisation or discontinuance of any contract between the Client and IFB.

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

- 12.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 12.2 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:
- (a) all Incidental Items previously supplied by IFB to the Client;
 - (b) all Incidental Items will be supplied in the future by IFB to the Client; and
 - (c) all the Client's present and after acquired property being a charge, including anything in respect of which the Client has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Client to IFB for Services – that have previously been provided and that will be provided in the future by IFB to the Client.
- 12.3 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 IFB 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 12.3(a)(i) or 12.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, IFB 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 Incidental Items charged thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of IFB;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Incidental Items in favour of a third party without the prior written consent of IFB.
- 12.4 IFB 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.
- 12.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 12.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 12.7 Unless otherwise agreed to in writing by IFB, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 12.8 The Client must unconditionally ratify any actions taken by IFB under clauses 12.3 to 12.5.
- 12.9 Subject to any express provisions to the contrary (including those contained in this clause 12), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

13. Security and Charge

- 13.1 In consideration of IFB agreeing to supply 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).
- 13.2 The Client indemnifies IFB from and against all IFB's costs and disbursements including legal costs of a solicitor and own client basis incurred in exercising IFB's rights under this clause.
- 13.3 The Client irrevocably appoints IFB and each director of IFB as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 13 including, but not limited to, signing any document on the Client's behalf.

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

- 14.1 The Client must inspect IFB's Services on completion and must within seven (7) days notify IFB in writing of any evident defect in the Services or Incidental Items provided (including IFB's workmanship) or of any other failure by IFB to comply with the description of, or quote for, the Services which IFB was to supply. The Client must notify any other alleged defect in IFB's Services or Incidental Items as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow IFB to review the Services or Incidental Items that were provided.
- 14.2 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**).
- 14.3 IFB acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 14.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, IFB makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. IFB's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 14.5 If the Client is a consumer within the meaning of the CCA, IFB's liability is limited to the extent permitted by section 64A of Schedule 2.

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- 14.6 If IFB is required to rectify, re-supply, or pay the cost of re-supplying the Services under this clause or the CCA, but is unable to do so, then IFB 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 and Incidental Items which have been provided to the Client which were not defective.
- 15. Copy Lodgement**
- 15.1 The Client must lodge all Copy in accordance with IFB's Copy Lodgement Requirements (Copy Lodgement Requirements shall mean copy lodgement and production requirements as is specified from time to time by IFB).
- 15.2 If Copy is not lodged as required by IFB then IFB shall still be entitled to payment for the Booking and IFB may (at its sole discretion) elect to publish Copy previously provided by the Client or to cancel the Services.
- 15.3 IFB reserves the right to place the word "advertisement" above or below any Copy which in IFB's opinion resembles editorial matter.
- 15.4 Copy must be supplied in a timely fashion in accordance with agreed deadlines specified at the time of Booking and is subject to editorial review. IFB (at its sole discretion) may refuse to accept, or request modification of any Copy supplied for publication, and may at any time cancel or reschedule any Booking, where IFB's specified deadlines or Copy Lodgement Requirements are not met, even after a Booking request or agency insertion order has been accepted.
- 15.5 If Copy has been received late for any reason and IFB is unable to publish the same then the Client shall remain liable for payment of the scheduled Booking or insertion request.
- 15.6 For online publications all Copy must be supplied no less than five (5) working days prior to the scheduled advertising start date and all click through URL's must allow the back button to return to IFB's website.
- 16. Client Warranties**
- 16.1 The Client acknowledges that all Copy is subject to the approval of IFB and may, regardless of prior approval, be rejected and removed by IFB.
- 16.2 The Client shall provide IFB with data in the following formats:
- (a) for text, files shall be in an electronic format as standard text (.txt) or Word (.doc) on a USB, CD-RIFB or via email;
 - (b) for images, in an electronic format as prescribed by IFB on a USB, CD-RIFB or via email with the images of a suitable quality applicable for the use intended and without any subsequent image processing being required. IFB shall not be responsible for the quality of images scanned from printed materials;
 - (c) additional expenses may be charged to the Client for any necessary action, including, but not limited to, photography and art direction, photography searches, media conversion, digital image processing or data entry services.
- 16.3 The Client warrants that all Copy lodged with IFB;
- (a) be true and correct in every particular; and
 - (b) does not contain Prohibited Content; and
 - (c) be non-political and non-religious by nature, and suitable for viewer of all ages; and
 - (d) not be, nor contain, anything that is defamatory of any person or is indecent or obscene; and
 - (e) complies with all laws, regulations, codes of practice, guidelines and any standards applicable to the advertising industry and as determined by any relevant regulatory agency or industry self-regulatory body (including, but not limited to, the Fair Trading Act 1986 and the Advertising Codes of Practice of the Advertising Standards Authority Inc.); and
 - (f) does not infringe copyright, trademark or any other legal rights of another person and/or entity; and
 - (g) does not contain anything which may give rise to any cause of action by a third party against IFB (including, but not limited to, material that may cause damage or injury to any person and/or entity); and
 - (h) is not false or misleading and is true in substance and in fact; and
 - (i) not contain nor constitute a statement that is misleading or deceptive or likely to deceive or to mislead or which is otherwise in breach of a provision of the Competition and Consumer Act 2010 or any other Commonwealth legislation of the applicable State.
- 16.4 Under pressure of deadline IFB reserves the right to amend copy, if IFB believes that the Copy (or any part of it) contravenes any of the above provisions, such amendments shall be made without any liability to the Client or Price reduction whatsoever.
- 16.5 IFB reserves the right to refuse to accept any Copy that does not comply with clause 16.3.
- 17. Conditions of Use**
- 17.1 The Client agrees to:
- (a) only use IFB for the purposes of advertising and/or seeking business opportunities, and is non-transferrable, except with the express approval of IFB (and any other Client concerned, if applicable);
 - (b) at all times to deal with IFB in a manner which abides by all applicable laws of Australia, or any other relevant jurisdiction (including, but not limited to, privacy and copyright issues).
- 17.2 The Client agrees that:
- (a) all personally identifiable information is, at all times, subject to the Privacy Policy (as per clause 22);
 - (b) the Client is responsible for their own actions in accessing IFB, or for any action done with the consent of the Client (including where clause 11.6 applies, unless the Client's Access Details were mistakenly disseminated by IFB);
- 17.3 The Client agrees and warrants that they shall not use IFB:
- (a) in any manner that:
 - (i) breaches the Privacy Policy of IFB, including but not limited to, any information that might reasonably be used to identify, locate or contact (unsolicited) any person;
 - (ii) transmits chain letters, junk mail or unsolicited email of any kind;
 - (iii) exploits minors, solicits information from minors, or encourages, promotes or incites inappropriate behaviour in minors, or the use of drugs by minors, or causes the image of a minor (whosoever that minor may be) to be posted on IFB;
 - (iv) constitutes, incites, solicits, or attempts to be, or conspires to be, criminal conduct in Australia, or in any other jurisdiction;
 - (v) infringes any legal, equitable or moral right of any third party in any jurisdiction;
 - (vi) breaches any intellectual property right of any third party without the express consent of said third party;

- (vii) impersonates any person whomsoever;
- (viii) harasses any person with unwelcome behaviour or solicits money from any person;
- (ix) deploys any robot, spider, worm or other device, to copy, retrieve, alter or reproduce the navigational structure or presentation of IFB, or any other information or material stored thereon;
- (x) redirects, or causes to be redirected, any other Client of IFB;
- (xi) except, and only to the extent, permitted by statute, modifies, adapts, sub-licences, translates, sells, reverse engineers, deciphers, or other disassembles any part of IFB.

(b) they shall not operate multiple accounts without the express prior written approval of IFB.

- 17.4 IFB may remove and refuse to post, at their sole discretion (and irrespective of the subjective opinion of the Client), any advertising that is in breach of this Contract, or that (in the sole opinion of IFB) is determined may bring IFB into disrepute. IFB will not be liable to the Client for any loss or damage the Client suffers because IFB has exercised its rights under this clause.

18. Limitation of Liability

- 18.1 Due to the inherent nature of Websites in general, IFB cannot guarantee uninterrupted or continuous availability of IFB, or the advertising, and the Client accepts that IFB may also be unavailable from time to time for maintenance or scheduled upgrades. Where able, IFB shall provide the Client with advanced warning of the same. IFB shall accept no liability in relation to IFB's downtime, whether scheduled or otherwise.
- 18.2 IFB makes no representations, statements, conditions or agreements, unless expressed by the Director of IFB in writing, concerning the Listing that is posted or available on IFB, nor is IFB bound by such.
- 18.3 The Client acknowledges that IFB may, in their absolute discretion, replace or amend the Copy to better reflect the going concern (etc.), and may alter the location of such Copy via the Website.
- 18.4 IFB makes no guarantee that:
- (a) IFB website portal (including any advertisement or content) will be accessible on all occasions; or
 - (b) where IFB provides links to outside resources, that the URL location of such resources are maintained, and remain accessible to any Client of IFB.
- Therefore, the Client indemnifies IFB against any and all claims for any loss or expense incurred by the Client, and/or any refund on any Advertising Plan, due to lack of functionality.
- 18.5 IFB acts only as a medium through which the Client places an advertisement and/or seeks business opportunities. Whilst IFB shall make all effort to ensure the reliability of the Website (including, all supplied Services), IFB disclaims any liability whatsoever for any loss and/or damage caused by the Client's utilisation of, or reliance on, IFB (including any decision made, or action taken by the Client in reliance upon any such information contained on, or omitted by IFB, and whatsoever advertisement and/or content is contained thereon), including, but not limited to, any representations made by IFB, or servants of IFB, concerning the displayed content, IFB and/or Services provided.
- 18.6 Any liability whatsoever, howsoever incurred, in any form of action on the part of IFB, shall be limited, subject to the maximum extent possible on a reasonably arguable view of the law, to the value of the consideration provided by IFB.
- 18.7 The Client indemnifies, and will keep indemnified, IFB against all claims, actions, suits, liabilities, actual or contingent costs, damages and expenses incurred by IFB in connection with:
- (a) any breach of these terms and conditions by the Client;
 - (b) any negligent act or omission by the Client;
 - (c) the Copy, or proposed Copy, of any content provided by the Client via the Website;
 - (d) an actual or alleged breach of any law, legislation, regulation, by-law, ordinance or code of conduct by IFB which occurs as a consequence of the Copy displayed via the Website.
- 18.8 IFB cannot, and does not, guarantee or warrant the Website will be free from infection, viruses, worms, Trojans or other code that manifest contaminating or destructive properties. The Client shall be responsible for implementing sufficient procedures and checkpoints to satisfy their particular requirements for accuracy of data input and output, and for maintaining a means external to IFB for the reconstruction of any lost data.
- 18.9 IFB does not guarantee the continued availability of any particular Copy, displayed via the Website, and shall not be liable to the Client (or any other party) should the advertisement expire at any time prior to removal or deletion of the same.

19. Intellectual Property

- 19.1 The Client acknowledges and agrees that all campaigns, trademarks, service marks, slogans, artwork, written materials, drawings, photographs, graphic materials, film, music, transcriptions or other materials that are subject to copyright, trademark, patent or similar protection produced by IFB as part of providing the Service to the Client shall become the property of the Client, unless otherwise stated, provided:
- (a) the Services are accepted in writing by the Client within twelve (12) months of being provided IFB; and
 - (b) the Client has paid IFB all amount owing in relation to the Price (and any costs associated with creating and, where applicable, producing such Services).
- 19.2 Notwithstanding clause 19.1, it is understood that IFB may, on occasion, license materials from third parties for inclusion in the Services. In such circumstances, ownership of such licensed materials remains with the licensor at the conclusion of the term of the licence. In such instances, the Client agrees that they remain bound by the terms and conditions of such licences. IFB will keep the Client informed of any such limitations.
- 19.3 The Client warrants that all designs, specifications or instructions given to IFB will not cause IFB to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify IFB against any action taken by a third party against IFB in respect of any such infringement.
- 19.4 The Client undertakes to acknowledge IFB's design or drawings in the event that images of the Incidental Items are utilised in advertising or marketing material by the Client.
- 19.5 The Client agrees that IFB may (at no cost) use for the purposes of marketing or entry into any competition, any Incidental Items which IFB has created for the Client.

20. Default and Consequences of Default

- 20.1 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 IFB's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 20.2 If the Client owes IFB any money the Client shall indemnify IFB from and against all costs and disbursements incurred by IFB in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, IFB's collection agency costs, and bank dishonour fees).
- 20.3 Further to any other rights or remedies IFB may have under this Contract, if a Client has made payment to IFB, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by IFB under this clause 20, where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.
- 20.4 Without prejudice to IFB's other remedies at law IFB shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to IFB shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to IFB becomes overdue, or in IFB's opinion the Client will be unable to make a payment when it falls due;
 - (b) the Client has exceeded any applicable credit limit provided by IFB;
 - (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.

21. Cancellation

- 21.1 Without prejudice to any other remedies IFB may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions IFB may suspend or terminate the supply of Services to the Client. IFB will not be liable to the Client for any loss or damage the Client suffers because IFB has exercised its rights under this clause.
- 21.2 IFB may cancel any contract to which these terms and conditions apply or cancel Delivery of Services at any time before the Services are delivered by giving written notice to the Client. On giving such notice IFB shall repay to the Client any money paid by the Client for the Services. IFB shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 21.3 In the event of the premature termination of this Contract (including by notification from the Client, (at least thirty (30) days prior to the expiration date of the Contract term), or as a result of Default, but excluding any breach or termination of this Contract by IFB):
- (a) the Client shall be responsible for the immediate payment of the following sums:
 - (i) the balance of the full Contract Price, where there is one (1) month remaining under the Contract term and less than thirty (30) days written notice is given; or
 - (ii) all other sums owing by the Client under this Contract (or any other Contract with the Client) as a result of the Default and termination of this Contract, including consequential damages and any and all loss of profits, costs, charges and expenses incurred by IFB in connection with (and resulting from) the premature termination of this Contract, which shall be calculated at a minimum of fifty percent (50%) of the remainder of the Price under this Contract where a fixed term applies.

22. Privacy Policy

- 22.1 All emails, documents, images or other recorded information held or used by IFB is Personal Information, as defined and referred to in clause 22.3, and therefore considered Confidential Information. IFB acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). IFB acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Clients Personal Information, held by IFB that may result in serious harm to the Client, IFB will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 22.2 Notwithstanding clause 22.1, privacy limitations will extend to IFB in respect of Cookies where transactions for purchases/orders transpire directly from IFB's website. IFB agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
- (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage and traffic; and
 - (c) reports are available to IFB when IFB sends an email to the Client, so IFB may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via IFB's website.
- 22.3 The Client agrees for IFB to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by IFB.
- 22.4 The Client agrees that IFB 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 creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.

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- 22.5 The Client consents to IFB being given a consumer credit report to collect overdue payment on commercial credit.
- 22.6 The Client agrees that personal credit information provided may be used and retained by IFB 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.
- 22.7 IFB 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.
- 22.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 22.3 above;
 - (b) name of the credit provider and that IFB 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 IFB has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of IFB, 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).
- 22.9 The Client shall have the right to request (by e-mail) from IFB:
- (a) a copy of the Personal Information about the Client retained by IFB and the right to request that IFB correct any incorrect Personal Information; and
 - (b) that IFB does not disclose any Personal Information about the Client for the purpose of direct marketing.
- 22.10 IFB 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 Contract or is required to be maintained and/or stored in accordance with the law.
- 22.11 The Client can make a privacy complaint by contacting IFB via e-mail. IFB 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.

23. Service of Notices

- 23.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
 - (e) if sent by email to the other party's last known email address.
- 23.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.

24. Trusts

- 24.1 If the Client at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not IFB may have notice of the Trust, the Client covenants with IFB as follows:
- (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and the trust fund;
 - (b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
 - (c) the Client will not without consent in writing of IFB (IFB will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal, replacement or retirement of the Client as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

25. General

- 25.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's 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.
- 25.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales, the State and in which IFB has its principal place of business, and are subject to the jurisdiction of the Sydney Courts in that state.
- 25.3 IFB shall be under no liability whatsoever to the Client for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by IFB of these terms and conditions (alternatively IFB's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).

IFB – Terms & Conditions of Trade

- 25.4 IFB may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 25.5 The Client cannot licence or assign without the written approval of IFB.
- 25.6 IFB may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of IFB's sub-contractors without the authority of IFB.
- 25.7 The Client agrees that IFB may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or otherwise at such time as the Client makes a further request for IFB to provide Services to the Client.
- 25.8 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.
- 25.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.