**OUR TERMS AND CONDITIONS**

# 1. DEFINITIONS

As used herein and throughout this Agreement:

**1.1** Designer encompasses all staff within the company of **<Insert company name>.**

**1.2** Client is any individual or company that has requested services from Designer.

**1.3** Agreement means the entire content of this Standard Terms and Conditions document, together with any other Supplements and any exhibits, schedules or attachments.

**1.4** Project means the scope of the Client’s identified usage of the work product.

**1.5** Services means all services and the work product to be provided to Client by Designer.

**1.6** Deliverables means the services and work product specified in the Proposal to be delivered by Designer to Client, in the form and media specified in the Proposal.

# 2. SERVICES

**2.1 Timing.** Prioritising performance of the Services will be at the Designer’s discretion and will undertake commercially reasonable efforts to perform the Services on time. Client agrees to review Deliverables within the time identified for such reviews and to promptly approve or provide written comments and/or corrections in writing.

**2.2 Hours of Operation.** Designer’s working and contact hours are strictly between 0900 and 1700 Monday to Friday. After-hour access to Designer are between 1700 and 2100 Monday to Friday and 0900 and 1700 on Saturday. After-hour access can be requested and will result in an increase in hourly rate.

**2.2 Testing and Acceptance.** Designer will exercise reasonable efforts to test Deliverables prior to providing Deliverables to Client. Client, within five (5) business days of receipt of each Deliverable, shall notify Designer, in writing, of any failure of such Deliverable to comply with the specifications set forth or of any other objections, corrections, changes or amendments Client wishes made to such Deliverable. In the absence of such notice from Client, the Deliverable shall be deemed accepted.

**2.3 Consultations and Meetings.** Consultations prior to Effective Date are not charged to client. Subsequent consultations and meetings, both in person and via video or phone call are charged at $30 per hour at a minimum of 1 hour.

**2.4 Fixed-Price Services.** All Services with a fixed price includes:

1. A maximum of three (3) layout/concept changes per design
2. A maximum of three (3) updates in the Client content by way of example, not limitation, typographic errors or misspellings after layout/concept is approved
3. A maximum of three (3) consultations after the Effective Date.

All additional changes are charged at Designer’s hourly rate at a minimum of 30 minutes.

# 3. FEES AND CHARGES

**3.1 Working Rates.** Designer’s pay rate for each assignment will be $65 per hour unless otherwise agreed. Designer will keep a record of time spent on assignments, correctly showing completed hours of work. Time is recorded in 30 minute increments at a minimum of 30 minutes. Designer will be responsible for invoicing Client for the correct number of hours worked.

**3.2 Accelerated Timing.** Prioritising your project above other standard clients will increase the hourly rate by 20% to $78 per hour. Prioritising your project above other standard clients and gaining after-hours access will increase the hourly rate by 50% to $97.5 per hour. Prioritising your project above **all** other clients and gaining After-hours access will increase the hourly rate by 100% to $130 per hour.

**3.3 Additional Costs.** The Project pricing includes Designer’s fee only. Any and all outside costs including, but not limited to, printing costs, equipment rental, photographer’s costs and fees, photography and/or artwork licenses, prototype production costs, talent fees, music licenses and online access or hosting fees, will be billed to Client unless otherwise agreed.

**3.4 Invoices.** All invoices are payable 30 days from date of invoice. A monthly service charge of ten percent (10%) is payable on all overdue balances. Designer reserves the right to withhold delivery and any transfer of ownership of any current work if overdue invoices are not paid in full.

## 4. CLIENT RESPONSIBILITIES

**4.1** Client acknowledges that it shall be responsible for performing the following in a reasonable and timely manner:

1. Coordination of any decision-making with parties other than the Designer;
2. Provision of all Client content in a form suitable for reproduction or incorporation into the Deliverables without further preparation, unless otherwise expressly stated; and
3. Final proofreading and in the event that Client has approved Deliverables but errors, such as, by way of example, not limitation, typographic errors or misspellings, remain in the finished product, Client shall incur the cost of correcting such errors.

4.2 Client acknowledges and agrees that Designer’s ability to meet any and all schedules is entirely dependent upon Client’s prompt performance of its obligations to provide materials and written approvals. Any delay caused by Client shall not constitute a breach of any term, condition or Designer’s obligations under this Agreement.

## 5. ACCREDITATION

**5.1** All ideas, concepts, copyright, inventions, patents, trademarks or other products or processes developed or created either in whole or part arising from or in connection with the activities of the Services shall be the sole property of Client. Designer retains the right to publish and display the Deliverables in Designer’s portfolios and in other media or exhibits for the purposes of recognition of creative excellence or professional advancement. All displayed work will be presented with a high standard of professionalism, honest, integrity, courtesy and discretion.

## 6. CONFIDENTIAL INFORMATION

**6.1** Each party acknowledges that in connection with this Agreement it may receive certain confidential or proprietary technical and business information and materials of the other party. Each party, its agents and employees shall hold and maintain in strict confidence all Confidential Information, shall not disclose Confidential Information to any third party, and shall not use any Confidential Information except as may be necessary to perform its obligations.

## 7. RELATIONSHIP OF THE PARTIES

**7.1 Independent Contractor.** Designer is an independent contractor, not an employee of Client or any company affiliated with Client. Designer shall provide the Services under the general direction of Client, but Designer shall determine, in Designer’s sole discretion, the manner and means by which the Services are accomplished. Conduct to a high standard of professionalism, honest, integrity, courtesy and discretion is expected.

**7.2 Designer Agents.** Designer shall be permitted to use third party designers or other service providers as independent contractors in connection with the Services. Designer shall remain fully responsible for such Design Agents’ compliance with the various terms and conditions of this Agreement.

**7.3 No Exclusivity.** The parties expressly acknowledge that this Agreement does not create an exclusive relationship between the parties. Client is free to engage others to perform services of the same or similar nature to those provided by Designer, and Designer shall be entitled to offer and provide design services to others, solicit other clients and otherwise advertise the services offered by Designer.

## 8. TERM AND TERMINATION

**8.1** This Agreement shall commence upon the Effective Date and shall remain effective until the Services are completed and delivered.

**8.2** This Agreement may be terminated at any time by either party effective immediately upon notice, or the mutual agreement of the parties, or if any party:

1. Becomes insolvent, files a petition in bankruptcy, makes an assignment for the benefit of its creditors; or
2. Breaches any of its material responsibilities or obligations under this Agreement, which breach is not remedied within ten (10) days from receipt of written notice of such breach.

**8.3** Upon expiration or termination of this Agreement:

1. Client is responsible to pay hourly fees for work performed by Designer or Designer’s agents as of the date of termination and Client shall pay all Expenses, fees, out of pockets together with any Additional Costs incurred through and up to, the date of cancellation
2. Each party shall return or, at the disclosing party’s request, destroy the Confidential Information of the other party
3. Other than as provided herein, all rights and obligations of each party under this Agreement, exclusive of the Services, shall survive.

## 9. GENERAL

**9.1 Modification.** This Agreement may be modified by the parties. Any modification of this Agreement must be in writing, except that Designer’s invoices may include, and Client shall pay, expenses or costs that Client authorizes by electronic mail in cases of extreme time sensitivity.

**9.2 Notices.** All notices to be given hereunder shall be transmitted in writing by electronic mail with return confirmation of receipt. Notice shall be effective upon confirmation of receipt.

**9.3 Force Majeure.** Neither party shall be deemed in breach of this Agreement if either party is unable to complete its obligations by reason of fire, earthquake, labour dispute, act of God or public enemy, death, illness or any other event beyond Designer’s control. Upon occurrence of any Force Majeure Event, either party shall give notice of its inability to perform or of delay in completing its obligations and shall propose revisions to the schedule for completion of the Services.

**9.4 Dispute Resolution.** In the event of a dispute arising out of this Agreement, the parties agree to attempt to resolve any dispute by negotiation between the parties. If they are unable to resolve the dispute, either party may commence mediation mutually agreed to by the parties.

**9.5 Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect and the invalid or unenforceable provision shall be replaced by a valid or enforceable provision.