

Terms and Conditions

1 Interpretation

1.1 Definitions:

'Agreement' means this agreement.

'Client' means the entity whose name and ABN appear at the end of this Agreement and whose authorised representative signs this Agreement.

'Deliverables' mean the final goods & services provided by IMA to the Client under this Agreement.

'Fees' mean the fees for the provision of the goods and services which result in and include the Deliverables.

'Materials' means any words, documents, literature, copy, questionnaires, fonts, pictures, photographs, drawings, artwork, story boards, designs (including graphic designs), devices, promotional items, samples, representations, films, tapes, sound recordings, domain names, website content, data, software or other things or materials in any media and all modifications, updates, adaptations and amendments thereto provided by or on behalf of one party to the other;

'Statement of Works' means goods and services requested by the Client and which IMA agrees to provide in accordance with this Agreement.

'Taxable Supply' and **'Tax Invoice Input Tax Credit'** and **'GST'** have the same meaning as set out in A New

Tax System (Goods and Services Tax) Act 1999 (Cth).

2 Engagement

- 2.1 The Client engages I.M Advertising Pty Limited ABN 98 108 292 324 of Level 2, Suite 222,4 Hyde Parade, Park Central Campbelltown NSW 2560 ('IMA') to provide Deliverables as set out in this Agreement.

3 Provision of Deliverables

- 3.1 IMA will provide the Deliverables in a diligent and professional manner and in accordance with the Statement of Works.
- 3.2 IMA will provide and deliver the Deliverables expeditiously and in accordance with the Statement of Works.
- 3.3 As soon as practicable after becoming aware of any matter which is likely to cause a significant delay or impediment in IMA discharging an obligation under this Agreement IMA will notify the Client in writing of the cause and likely duration of the delay or nature of the impediment. IMA must make all reasonable endeavours to minimise any delay.

4 Compliance

- 4.1 The Client acknowledges that the Deliverables have not been prepared as cleared for print, broadcast or any other method of publication. The Deliverables provided to the Client shall be at Client's own risk.
- 4.2 Unless specified otherwise in the Statement of Works (including as a Client responsibility) IMA shall be

responsible for obtaining all releases from actors, artists, photographers, models, musicians, athletes, professionals and /or any other persons or talent required to produce the Deliverables if required.

- 4.3 If any other checks or approvals are required in connection with the Deliverables (including police or working with children checks) the requirement and the responsible party will be set out in the Statement of Works.
- 4.4 IMA will comply with all brand guidelines provided to it by the Client.

5 Client Responsibilities and Approval

- 5.1 The Client will be responsible for providing the Materials and carrying out the tasks as set out in the Statement of Works.
- 5.2 The Client shall be responsible for obtaining approval for any product claims made within the Deliverables produced by IMA.
- 5.3 IMA shall submit to the Client for specific approval, creative material, press releases, articles, photographs and captions, copy, layouts, and artwork and scripts relating to the goods and services prior to incorporating these into the Deliverables.
- 5.4 Deliverables will be submitted to the Client for final approval.
- 5.5 The Client will carry out its responsibilities (including review of Material and Deliverables submitted for approval) expeditiously and so as not to delay IMA's performance of the goods and services. Where the Client causes a delay the final delivery date will be extended by the period of the delay and IMA may charge the Client

for any additional time spent or expense incurred due to the delay.

6 Warranties and Indemnities

- 6.1 The Client warrants to IMA that: The Client is the sole proprietor of, or is licenced to use any Materials provided to IMA by the Client; The Materials provided by the Client do not infringe any existing copyright or intellectual property rights of third parties; The Materials provided by the Client do not contain anything which is libelous, defamatory or otherwise illegal.
- 6.2 The Client shall indemnify IMA, its servants and agents, and each of them against all claims, suits, causes of action and demands which IMA may have arising out of, relating to or in connection with a breach of this Agreement of whatsoever nature (including any legal costs or expenses properly incurred) occasioned to IMA in consequence of any breach by the Client of any term or warranty of this Agreement.

7 Fees and Expenses

- 7.1 The Client shall be provided with a schedule of Fees prior to the commencement of this Agreement. The Client will pay the Fees to IMA's on presentation of an invoice and within 30 days of receipt.
- 7.2 The Fees include the budgeted expenses set out in the Statement of Works (Budget). IMA will manage the Budget and, subject to clause 8, any variation between the Budget and actual third party expenses incurred in providing the goods and services is IMA's responsibility.
- 7.3 The Client acknowledges and agrees that the provision of the goods and services may be subject

to contingencies. Contingencies are not included in any Fee. If the Client authorises IMA to proceed with a contingency or contingencies to the goods and services and / or Deliverables, a contingency fee will be added to the Fees.

- 7.4 Except where express provision is made to the contrary, and subject to this clause, any amount that may be payable under the Statement of Works is exclusive of GST. If the one party ("Payee") makes a Taxable Supply in connection with the Project Agreement then the other party ("Payor") must also pay, at the same time and in the same manner the amount of any GST payable in respect of the Taxable Supply. The Payee's right to payment under this clause is subject to a valid Tax Invoice, or an adjustment note as appropriate, being delivered to the Payor.
- 7.5 If any party reimburses another for any expense incurred in connection with any Taxable Supply made under or in connection with the Statement of Works, the amount payable will equal the cost of the expense less any Input Tax Credit available in connection with that expense plus GST.

8 Variation Process

- 8.1 IMA is entitled to seek a variation to the Fees if the Client:
- 8.1.1 requests a change to the goods and services (including the Deliverables); or
 - 8.1.2 requires IMA to acquire goods or services that are not part of the Budget or

alters a budgeted requirement so that IMA is required to incur more cost.

- 8.2 Before varying the goods and services or the Budget IMA will provide the Client with a quotation detailing the cost and effects of the proposed variation.
- 8.3 On receipt of the quotation the Client, if it wishes the variation to proceed, must approve the variation in writing. IMA will not be required to make any variation without the Client's prior written approval.
- 8.4 The Fees for varied goods and services will be in accordance with the quotation or as otherwise agreed in writing between the parties.

9 Intellectual Property

- 9.1 Subject to clause 9.1, IMA assigns all Intellectual Property in the Deliverables to the Client on payment of the Fees or, where the Fees are to be paid in instalments, the final instalment of the Fees. IMA will not be required to release final masters of the Deliverables until such payment is received.
- 9.2 Nothing in this clause 9 affects the ownership of any pre-existing Material. Upon the assignment of Intellectual Property under clause 9 IMA grants the Client a permanent, irrevocable, royalty- free non-exclusive licence to use, reproduce, adapt, modify, publish and exploit within Australia any pre-existing Material provided by it and incorporated in the Deliverables.
- 9.3 The Client grants IMA a licence to use, reproduce, adapt, modify and publish any Material provided by the Client

under this Agreement for inclusion in the Deliverables solely for the purpose of IMA performing its obligations under this Agreement.

10 Termination

- 10.1 The Client may terminate this Agreement by providing 7 days written notice to IMA. Any prepaid Fees will not be refunded.
- 10.2 The Client is responsible for payment for all goods and services provided (including work in progress costs) up to the date of termination, including any expenses incurred from the Budget up to that date or which cannot be cancelled by IMA (Termination Costs). IMA will invoice the Client for the Termination Costs (less any prepaid Fees retained under clause 10.1)
- 10.3 Either party may terminate this Agreement if the other breaches any material term of this Agreement and fails to remedy the breach within 30 days of notice specifying the breach.
- 10.4 Either party may terminate this Agreement immediately by giving notice to the other party if:
- 10.4.1 the other party ceases to carry on business;
 - 10.4.2 any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of the other party's assets or business;
 - 10.4.3 any step is taken to appoint a receiver, a receiver and manager, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the other party's assets or business;
 - 10.4.4 the other party disposes of

the whole or any part of its assets, operations or business other than in the normal course of business; or

- 10.4.5 the other party ceases to be able to pay its debts as they become due and payable.
- 10.5 Termination by either party is without prejudice to any accrued rights or remedies of that party and will not release the other party from liability in respect of any breach or non-performance of any obligation.



EXECUTED as an agreement.

Signed for and on behalf of
[Client] by a duly authorised
representatives:

Signature of Representative

Signature of Representative

Name of Representative

Name of Representative

Signed for and on behalf of
I.M. Advertising Pty Ltd by a
duly authorised representative
in the presence of:

Name of Representative

Signature of Representative

Name of Witness (Print)

Signature of Witness