

1. Definitions

- 1.1 "Decoy Marketing" means Associate Thinking Pty Ltd Pty T/A Decoy Marketing, its successors and assigns or any person acting on behalf of and with the authority Associate Thinking Pty Ltd T/A Decoy Marketing
- 1.2 "Client" means the person/s requesting Decoy Marketing to provide the Services as specified in any invoice, document or order, and if there more than one person requesting the Services is a reference to each person jointly and severally.
- 1.3 "Services" means all Services provided by Decoy Marketing to the Client at the Client's request from time to time.
- 1.4 "Goods" means any goods, advertisements, publications, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by Decoy Marketing in the course of it conducting, or providing to the Client, the Services.
- 1.5 "Copy" shall mean any manuscript, advertisement, general copy, graphics and other digital display material and/or content supplied by the Client for the provision of the Services.
- 1.6 "Price" means the price payable for the Services as agreed between Decoy Marketing and the Client in accordance with clause 4 of this contract.
- 1.7 "Web Site" means a location which is accessible on the Internet through the worldwide web, and which provides multimedia content via a graphical user interface.
- 1.8 "Prohibited Content" means any content on a Web Site that:
 - a) is, or could reasonably be considered to be, in breach of the Broadcast Services Amendment (Online Service) Act 1999 (Cth); the Competition and Consumer Act 2010 (Cth); 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.

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 Decoy Marketing.
- 2.2 These terms and conditions may only be amended with Decoy Marketing's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and Decoy Marketing.
- 2.3 Services provided by Decoy Marketing are subject to availability and only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Client's order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade.

3. Change in Control

- 3.1 The Client shall give Decoy Marketing 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 Decoy Marketing as a result of the Client's failure to comply with this clause.

4. Price and Payment

- 4.1 At Decoy Marketing's sole discretion, the Price shall be either:
 - a) as indicated on any invoice provided by Decoy Marketing to the 11.2 Client; or
 - b) Decoy Marketing's quoted price (subject to clause 5) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

4.2 At Decoy Marketing's sole discretion, a non-refundable deposit may be required.

- 4.3 Time for payment for the Services being of the essence, the Price will be payable by the Client on the date/s determined by Decoy Marketing, which may be:
 - a) on provision of the Services;
 - b) by way of instalments in accordance with Decoy Marketing's 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 thirty (7) days following the date of any invoice given to the Client by Decoy Marketing
- 4.4 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (plus a surcharge of up to three percent (3%) of the Price), or by any other method as agreed (c) to between the Client and Decoy Marketing.
- 4.5 Unless otherwise stated the Price does not include GST. In addition to the Price the Client must pay to Decoy Marketing an amount equal to any GST Decoy Marketing must pay for any provision of Services by Decoy Marketing under this 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 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. Variations

- 5.1 Decoy Marketing reserves the right to change the Price if a variation to Decoy Marketing's quotation is requested, including:
 - a) where quotations are based on specifications, roughs, layouts, samples or dummies or printed, typewritten or other good copy, any extra work or cost caused by any variation by the Client of his original instructions or by the copy being, in Decoy Marketing's opinion, poorly prepared, or by the Client's requirements being different from those originally submitted or described;
 - b) all work carried out whether experimentally or otherwise at the Client's request;
 - c) any tabulated work and/or foreign language included in the job but not contained in the copy originally submitted;
 - d) any fonts, or colour proofs, or artwork, specially bought at the Client's request for the Services;
 - e) when style, type or layout is left to Decoy Marketing's judgement, and the Client makes further alterations to the copy;
 - f) any change or correction to any film, bromides, artwork and/or any printing surface supplied by the Client, and deemed necessary by Decoy Marketing to ensure correctly finished work.

6. Samples and Proof Reading

- 6.1 Decoy Marketing is under no obligation to provide samples of the Goods ordered other than by virtual (computerised) sample. Whilst every effort will be taken by Decoy Marketing to match virtual colours with physical colours, Decoy Marketing will take no responsibility for any variation between virtual samples and the supplied Goods. Should a physical sample be required, this will be provided on request by the Client and will be charged for as an extra in accordance with clause 5.
- 6.2 Whilst every care is taken by Decoy Marketing to carry out the instructions of the Client, it is the Client's responsibility to undertake a final proof reading of the Goods. Decoy Marketing shall be under no liability whatever for any errors not corrected by the Client in the final proof reading, and should the Client's alterations require additional proofs this shall be invoiced as an extra in accordance with clause 5.

7. Provision of the Services and Delivery of the Goods

- 7.1 Any time specified by Decoy Marketing for provision of the Services is an estimate only and Decoy Marketing will not be liable for any loss

or damage incurred by the Client as a result of delayed provision of the Services of delivery of the Goods 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 Decoy Marketing is unable to provide the Services as agreed solely due to any action or inaction of the Client then Decoy Marketing shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date.

- 7.2 Delivery of the Goods is taken to occur at the time that:
 - a) the Client or the Client's nominated carrier takes possession of the Goods at Decoy Marketing's address; or
 - b) Decoy Marketing (or Decoy Marketing's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.
- 7.3 At Decoy Marketing's sole discretion, the cost of delivering the Goods is either included in, or is in addition to, the Price.
- 7.4 The Client must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. In the event that the Client is unable to take delivery of the Goods as arranged then Decoy Marketing shall be entitled to charge a reasonable fee for redelivery and/or storage.
- 7.5 Decoy Marketing may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.

8. Risk

- 8.1 Irrespective of whether Decoy Marketing retains ownership of any Goods, 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 Decoy Marketing may repossess the Goods in accordance with clause 12.3(f) The Client must insure all Goods on or before delivery.

9. Client's Property and Material Supplied by Client

- 9.1 Where the Client supplies materials to Decoy Marketing for the provision of the Services:
 - a) adequate quantities shall be supplied to cover spoilage. Sheets and (ii) other materials shall not be counted or checked when received unless requested by the Client in writing, and this shall be charged as an extra in accordance with clause 5.1.

10. Copy

- 10.1 The Client acknowledges that all Copy supplied to Decoy Marketing is subject to the approval of Decoy Marketing and may, regardless of prior approval, be rejected and removed by Decoy Marketing.
- 10.2 The Client warrants that all Copy supplied to Decoy Marketing to be used for the provision of the Services shall:
 - 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 viewers 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 against Decoy Marketing (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 Trade Practices Act of 1974 or any other commonwealth legislation of the applicable state.
- 10.3 The Client shall indemnify, and keep indemnified, Decoy Marketing at all times against all actions, proceedings, claims, demands, liabilities, either express or implied, and all costs, losses, losses of profit, damages and expenses whatsoever which may be taken against Decoy Marketing, resulting or arising from the Client being in breach of clause 10.1

11. Web Hosting

- 11.1 The Client's Copy shall be installed, and the Web Site shall be hosted, on the webserver.
- 11.2 From the live date, the Web Site is accessible to users in accordance with service levels (subject to reasonable downtime for server maintenance or Web Site maintenance).
- 11.3 The Client shall be provided with reasonable access to the Web Site to perform maintenance services.
- 11.4 Decoy Marketing will not be liable for any loss, corruption, or deletion of files or data (including, but not limited to software programs) resulting from illegal hacking or Services provided by Decoy Marketing. Whilst Decoy Marketing will (at their sole discretion) endeavor to restore the Web Site, files or data (at the Client's cost), and it is the sole responsibility of the Client to regularly back-up any data which they believe to be important, valuable, or irreplaceable. The Client accepts full responsibility for the Client's software and data and Decoy Marketing is not required to advise or remind The Client of appropriate backup procedures.
- 11.5 The Client will, at its sole cost and expense:
 - a) develop and maintain the Client's Web Site;
 - b) provide the Client's Copy to Decoy Marketing, in such form as reasonably prescribed by Decoy Marketing from time to time, and hereby grants Decoy Marketing a non-exclusive, worldwide, irrevocable licence to use the Client's Copy for the purposes of hosting the Client's Web Site;
 - c) do all things reasonably necessary to enable Decoy Marketing to host the Client's Web Site on Decoy Marketing's webserver;
 - d) ensure that the Client's Copy supplied to Decoy Marketing does not contain: Prohibited Content, a link to Prohibited Content, viruses or Trojan horses or the like.

12. Ownership of Goods

- 12.1 Decoy Marketing and the Client agree that where it is intended that the ownership of Goods is to pass to the Client that such ownership shall not pass until:
 - a) the Client has paid Decoy Marketing all amounts owing for the Services; and
 - b) the Client has met all other obligations due by the Client to Decoy Marketing in respect of all contracts between Decoy Marketing and the Client.
- 12.2 Receipt by Decoy Marketing of any form of payment other than cash shall not be deemed to be paid until that form of payment has been honoured, cleared or recognized and until then, Decoy Marketing's ownership or rights in respect of the Goods shall continue.
- 12.3 It is further agreed that:
 - a) the Client is only a bailee of the Goods and must return the Goods to Decoy Marketing immediately upon request by Decoy Marketing,
 - b) the Client holds the benefit of the Client's insurance of the Goods on trust for Decoy Marketing and must pay to Decoy Marketing 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. If the Client sells, disposes or parts with possession of the Goods then the Client

must hold the proceeds of sale of the Goods on trust for Decoy Marketing and must pay or deliver the proceeds to Decoy Marketing on demand.

- d) the Client irrevocably authorizes Decoy Marketing to enter any premises where Decoy Marketing believes the Goods are kept and recover possession of the Goods.

13. Defects, Warranties and the Competition and Consume Act 2010 (CCA)

- 13.1 The Client must inspect Decoy Marketing's Services on completion of the Services and must within seven (7) days notify Decoy Marketing in writing of any evident defect in the Services or Goods provided or of any failure by Decoy Marketing to comply with the description of, or quote for, the Services which Decoy Marketing was to provide. The Client must allow Decoy Marketing to review the Services or Goods that were provided.
- 13.2 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Decoy Marketing makes no warranties or other representation under these terms and conditions including, but not limited to, the quality of suitability of the Services. Decoy Marketing's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 13.3 Decoy Marketing shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of the Client failing to properly maintain or store any Goods, the Client using the Goods for purposes other than that for which they were designed, the Client continuing to use any Incidental items after any defect became apparent or should have become apparent to a reasonably prudent operator, the Client failing to following any instructions or guidelines provided by Decoy Marketing or fair wear and tear (including the fading of inks), any accident or act of God.

14. Security and charge

- 14.1 In consideration of Decoy Marketing agreeing to provide the 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).
- 14.2 The Client indemnifies Decoy Marketing from and against all Decoy Marketing's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Decoy Marketing's rights under this clause.
- 14.3 The Client irrevocably appoints Decoy Marketing and each director of Decoy Marketing as the Client's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Client's behalf.

15. Intellectual Property

- 15.1 Where Decoy Marketing has designed, drawn, coded or developed Goods for the Client, then the copyright in any Goods shall remain the property of Decoy Marketing, and the Client undertakes to acknowledge Decoy Marketing's design or drawings in the event that images of the Goods are utilized in advertising or marketing material by the Client.
- 15.2 Drawings, sketches, painting, photographs, design or typesetting furnished by Decoy Marketing remain the exclusive property of Decoy Marketing, unless otherwise agreed upon in writing.
- 15.3 Sketches and mockups submitted by Decoy Marketing on a speculative basis shall remain the property of Decoy Marketing. They shall not be used for any purpose other than that nominated by Decoy Marketing and no ideas obtained there from may be used without the consent of Decoy Marketing, and Decoy Marketing shall be entitled to compensation from the Client for any unauthorized use of such sketches, mockups, dummies, photography.
- 15.4 The Client warrants that all designs, specifications or instructions given to Decoy Marketing will not cause Decoy Marketing to infringe any

patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Decoy Marketing against any action taken by a third party against Decoy Marketing in respect of any such infringement.

- 15.5 The Client agrees that Decoy Marketing (at no cost) use for the purpose of marketing or entry into any competition, any Goods which Decoy Marketing has created for the Client and/or any Services provided to the Client.

16. Default and Consequences of Default

- 16.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of three percent (3%) per calendar month (and at Decoy Marketing's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgement.
- 16.2 If the Client owes Decoy Marketing any money the Client shall indemnify Decoy Marketing from and against all costs and disbursements incurred by Decoy Marketing in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Decoy Marketing's contract default fee, and bank dishonor fees).
- 16.3 Without prejudice to any other remedies Decoy Marketing may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions Decoy Marketing may suspend or terminate the provision of Services to the Client (including procurement services such as advertising procurement and website hosting). Decoy Marketing will not be liable to the Client for any loss or damage the Client suffers because Decoy Marketing has exercised its rights under this clause.
- 16.4 Without prejudice to Decoy Marketing's other remedies at law Decoy Marketing shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Decoy Marketing shall, whether or not due for payment, become immediately payable if:
- any money payable to Decoy Marketing becomes overdue, or in Decoy Marketing's opinion the Client will be unable to make a payment when it falls due;
 - 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 benefits of its creditors; or
 - a receiver, manager, liquidator (provisions or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

17. Cancellation

- 17.1 Decoy Marketing may cancel any contract to which these terms and conditions apply or cancel provision of the Services at any time before the Services are commenced by giving written notice to the Client. On giving such notice Decoy Marketing shall repay to the Client any money paid by the Client for the Services. Decoy Marketing shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 17.2 In the event that the Client cancels the Services the Client shall be liable for any and all loss incurred (whether direct or indirect) by Decoy Marketing as a direct result of the cancellation (including, but not limited to, any loss of profits).

18. Privacy Act 1988

- 18.1 The Client agrees for Decoy Marketing 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 Decoy Marketing.
- 18.2 The Client agrees that Decoy Marketing may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
- to assess an application by the Client; and/or
 - to notify other credit providers of a default by the Client; and/or

- 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

- to assess the creditworthiness of the Client including the Client's repayment history in the preceding two years.

- 18.3 The Client consents to Decoy Marketing being given a consumer credit report to collect overdue payment on commercial credit.
- 18.4 The Client agrees that personal credit information provided may be used and retained by Decoy Marketing for the following purposes (and for other agreed purposes or required by):
- the provision of Goods; and/or
 - analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Goods; and/or
 - processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - enabling the collection of amounts outstanding in relation to the Goods.

- 18.5 Decoy Marketing may give information about the Client to a CRB for the following purposes:
- to obtain a consumer credit report;
 - allow the CRB to create or maintain a credit information file about the Client including credit history.

- 18.6 The information given to the CRB may include:
- personal information as outlined in 18.1 above;
 - name of the credit provider and that Decoy Marketing is a current credit provider to the Client;
 - whether the credit provider is a licensee;
 - type of consumer credit;
 - 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);
 - 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 Decoy Marketing has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - information that, in the opinion of Decoy Marketing, the Client has committed a serious credit infringement;
 - advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).

- 18.7 The Client shall have the right to request (by e-mail) from Decoy Marketing:

- a copy of the information about the Client retained by Decoy Marketing and the right to request that Decoy Marketing correct any incorrect information; and
- that Decoy Marketing does not disclose any personal information about the Client for the purpose of direct marketing.

- 18.8 Decoy Marketing 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.

- 18.9 The Client can make a privacy complaint by contacting Decoy Marketing via e-mail. Decoy Marketing 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.

19. Storage, Disclosure and Handling of Personal Information

- 19.1 All emails, documents, images or other recorded information held or used by Decoy Marketing is personal information and therefore considered confidential. The storage, disclosure and handling of personal information is subject to the principles set out in the Privacy Act 1988, which sets out principles for the collection, holding,

use and disclosure of personal information. Any release of such personal information must be in accordance with the privacy Act principles and be approved by the Director of Decoy Marketing.

20. Limitation of Liability and Indemnity

- 20.1 Subject to clause 15, Decoy Marketing accepts no liability whatsoever for any defect, error or omission in any Goods approved by the Client, and will not be responsible for any costs or losses incurred by the Client by reason of any error in the Goods (including, but not limited to, offering any refund or credit).
- 20.2 The Client agrees to indemnify Decoy Marketing, its employees, agents and affiliates (and their employees and agents) against any action, claim, loss or expense arising from the Goods, or cancellation, or failure to deliver the Goods, and all costs, losses and expenses suffered or incurred by Decoy Marketing, its employees, agents and affiliates (and their employees and agents) as a result of any breach by the Client of these conditions or any other agreement between the Client and Decoy Marketing.
- 20.3 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 Decoy Marketing against any costs or losses incurred by the Client as a result of this.

21. General

- 21.1 The failure by Decoy Marketing to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect Decoy Marketing'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.
- 21.2 These terms and conditions and any contract to which they apply shall be governed by the laws of ACT, the state in which Decoy Marketing has its principal place of business, and are subject to the jurisdiction of the Canberra Courts in that state.
- 21.3 Subject to clause 15 Decoy Marketing 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 Decoy Marketing of these terms and conditions (alternatively Decoy Marketing's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 21.4 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 Decoy Marketing nor to withhold payment of any invoice because part of that invoice is in dispute.
- 21.5 Decoy Marketing may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 21.6 The Client agrees that Decoy Marketing may amend these terms and conditions at any time. If Decoy Marketing makes a change to these terms and conditions, then that change will take effect from the date on which Decoy Marketing notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for Decoy Marketing to provide Services to the Client.
- 21.7 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.
- 21.8 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 contact Decoy Marketing for a larger, print version of these terms and conditions.