

HAARPER - TERMS AND CONDITIONS

1. WHO WE ARE

1. We are Harper Pty Ltd (ACN 632 114 740) of 10-20 Gwynne St, Cremorne VIC 3121 (**Harper, Us, We**). You are our client or potential client named in any proposal for work, invoice, quote or any other document of that kind to you (**You**). These terms and conditions are the terms that will govern all dealings between Us and You.
2. By engaging with Us after receiving these terms or by paying an invoice that we issue to You, You agree to bound by these terms and conditions, and so do we. There may be other terms that are relevant to our dealings with each other and these will be clearly set out in other documents we share with you (**Agreement**).
3. Harper is an independent contractor and is not for any purpose your partner, joint venturer, servant, agent or employee.
4. You are happy for us to rely on any representations, statements or instructions made by Your directors, officers, agents or employees as being given by You. We will rely on this representation in relation to all of Our dealings with You.

2. WHAT WE DO

- 1.The services that we agree to deliver to You will always be clearly set out in our documentation under headings such as 'Proposed Scope' or 'Work Scope' (**Services**). You agree to appoint Us to deliver those Services to You until the Agreement expires or is terminated (**Term**).
- 2.Once You provide Us with an approval to proceed with a scope of works, we will proceed to deliver those Services to You in accordance with Agreement. If you want to change or expand the Services, you will need to write to Us and ask Us to do so. If You ask us to perform additional services, we will obviously charge you reasonable additional fees for those additional services.
- 3.Your appointment of Harper is exclusive, and You agree not to appoint anyone else to deliver the Services or services similar to the Services during the Term. Given the nature of Our business, You consent to Us delivering Services that are similar to the Services to third parties, including Your competitors. If you wish to discuss this with Us on a case by case basis, please feel free to do so.
- 4.We will make sure that we supply the Services to You:
 - (a) exercising due care, our professional skills and best judgement;
 - (b) in an efficient and professional manner;
 - (c) in accordance with all applicable laws; and

- (d) in a way that doesn't harm You or bring You into disrepute.
- 5.We will provide all equipment and tools needed to deliver the Services (unless we have set out a different arrangement in our Agreement). You agree that we can subcontract Our delivery of the Services (or some of the Services) if we need to.
 - 6.You agree to provide Us with everything that we'll need to deliver the Services to You including incorporation, identification, compliance, promotional, graphic and marketing material that We might request from You. You give us a licence to use this type of material and information so that we can carry out the Services.
 - 7.You agree to review our work, give us feedback and approvals (where needed) and take any other actions within our requested timelines. We'll do our best to meet all the deadlines that You or We have set, but You understand that We can't be responsible for any delays that happen because we have to wait to get information from You (or someone else).
 - 8.To the maximum extent needed, You give Us all authority to carry out the Services and make representations on Your behalf. We acknowledge though that We do not have the authority to bind You or act as Your agent without Your express consent.

3. WHAT YOU AGREE TO PAY US (AND WHEN)

- 1.In return for Our delivery of the Services to You, You agree to pay us the fees described in the 'Pricing' section of our proposal for work or any other amount we have informed you will be payable (**Fees**) and the commission payments described in the 'commission structure' section of our proposal for work (**Commission**). We have set out Fees based on the amount of work that we've estimated is required in reliance on your brief to Us and described in the proposal for work. If the scope of the Services or the original brief changes, You agree to pay Us the reasonable extra costs.
- 2.We will provide you with a tax invoice for the Fees and the Commission. Unless we have said something different in a proposal for work, we will issue you with invoices:
 - (a) for Services billed on a Project basis:
 - (i) 50% of the Fee on the date we commence the Services;
 - (ii) 25% of the Fee payable at completion of the first milestone described in the proposal for work that you have accepted; and
 - (iii) the 25% balance of the Fee payable at completion of the project described in the proposal for work that you have accepted.

- (b) for Services billed on a Retainer model, on a monthly basis as described in a proposal for work that you have accepted; and
 - (c) for Commission, on the basis described in a proposal for work that you have accepted.
3. We will also invoice You to reimburse Us for any expenses that we incur on your behalf in delivering the Services. You agree that You will pay those amounts to Us on the terms set out in the relevant invoice. Wherever we are able to, we will seek Your consent to incur those expenses, but You acknowledge that sometimes that won't be possible if we need to urgently get things done.
4. You agree to pay all amounts described in our invoices within 7 days of the date of invoice.
5. In the event that You don't pay the Fees on time:
- (a) We reserve the right to suspend delivery of the Services until You have paid all outstanding amounts; and
 - (b) Given the impact that late payments have on our business, You agree that We may charge interest at a rate of 10% per annum in respect of any unpaid amounts to recoup the loss caused to our business.
6. You acknowledge that, if You make a request for Us to complete work that is outside the scope of the Services, we will need to increase the amount of the Fees as payment for the additional work. It is important that You and We review the scope of the Services to make sure that we both are clear on what is included in the Services. We will rely on You to ask us any questions about the scope of the Services.

4. **GST**

- 1. Unless we have said something different, all amounts that are payable under this Agreement are described as exclusive of, but subject to, GST.
- 2. You and We acknowledge that if GST applies to a supply made under this Agreement, the party who receives the taxable supply must pay GST on that taxable supply, in addition to any consideration (excluding GST). That party must make that payment at the same time and in the same way as it pays the consideration for the taxable supply.
- 3. **GST** means goods and services tax as imposed by the GST law.
- 4. **GST Law** includes A New Tax System (Goods and Services Tax) Act 1999 and all associated legislation.

5. **OUR IDEAS**

- 1. This clause is really important to Us. We will share plenty of ideas and materials with You. You agree that all of those ideas and materials (regardless of

when or where we share them with You) are our intellectual property and are really valuable to Us. You agree not to use, distribute, copy, publish, reverse engineer or share any of those ideas, materials and work except in accordance with this Agreement or if we say that you can in writing.

- 2. We both acknowledge that all Intellectual Property Rights owned by or licensed to You or by Us or by any third party before we enter in to or outside of, this Agreement (**Background IP**) that pre-exist this Agreement always were and always will be the property of whoever owned them. There isn't any change to any right, title or interest in any of that Background IP because of this Agreement.
- 3. You grant Us a perpetual royalty free licence to use all of your Intellectual Property Rights that We need to use to deliver the Services including the material provided in clause 2.6. We won't use those rights for any reason except for Your benefit.
- 4. During our delivery of the Services, We will produce documents, work and other materials for You (**Deliverables**). The ownership of any Intellectual Property Rights in those Deliverables (or anything else we produce because of this Agreement) will always be Ours. However, once you have paid for them, We are happy to grant you an ongoing licence to use the Intellectual Property Rights in the Deliverables for those purposes.
- 5. You agree to indemnify Us for any loss or damage that We may suffer or incur if you provide us with any material or information to use that actually belongs to someone else (in other words, if you breach the Intellectual Property Rights of any third party). You also agree to indemnify us for all cost, loss or damage that we suffer as a result of Your breach of any of Our Intellectual Property Rights including a breach of clause 5.1 above.
- 6. When we say "**Intellectual Property Rights**," we mean all rights comprised in any patent, invention, copyright, design, trademark, eligible layout or similar right, whether at common law or conferred by statute, including the right to apply for registration in respect of those rights, and the rights to protect trade secrets, know-how and goodwill.

6. **WHAT IF WE WANT TO END THINGS?**

- 1. These terms apply to all of Our dealings with You.
- 2. Our mutual obligations in respect of Our delivery of the Services will continue for the Term set out in any proposal for work that you have accepted or until You or We end it in accordance with this clause 6.
- 3. Either You or Us may terminate the delivery of the Services at any time by providing one (1) month's written notice to the other party.
- 4. In addition to any other legal rights either of us has, the Agreement may be immediately

terminated by You or by Us by writing to the other party if:

- (a) the other party is incapable of continuing the Agreement because of death, bankruptcy, or insolvency (as defined by the Corporations Act); or
- (b) the other party is in breach of this Agreement and fails to remedy the breach within 7 days of notice requiring it to do so.

5. When this Agreement is terminated or the Term ends, You agree to pay us immediately for any outstanding amounts.

6. Even if the delivery of Services is terminated, You agree that the following clauses will still apply to You 1, 3, 4, 5, 6, 7 and 8.

7. CONFIDENTIALITY

1. During this Agreement and after it ends, You and We agree not to disclose any Confidential Information to anyone else without the written consent of the other party.
2. If You or We are required by law to disclose any information which would be deemed Confidential Information, then we agree that the other party should do so, but must first let the other party know.
3. When we say “**Confidential Information**” we mean all information relating directly or indirectly to any each other that includes information that is by its nature is confidential, or known to be confidential including things like business performance, strategy and processes.

8. GENERAL

1. You agree that you will not be able to assign this Agreement without the written approval of the other party first.
2. If We are in dispute about anything related to our relationship with each other or this Agreement, You agree that we will meet up in person to discuss in good faith what the problem is before either of Us institutes proceedings or takes any other steps at Court. If for some reason we can't resolve the problem within 30 days, either one of us may pursue our rights at law.
3. If any part of this Agreement is invalid or unenforceable, this Agreement does not include it and the remainder of this Agreement continues in full force.
4. Any clause of this Agreement that makes provision for continued operation or is intended to survive expiry or termination of this Agreement will survive the expiry or termination of this Agreement.

5. This Agreement is governed by the laws of Victoria. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.