

Terms & Conditions

1. Introduction

- 1.1. A quotation submitted by Redfox shall be an offer to enter into a contract pursuant to that quotation, and subject to these terms and conditions.
- 1.2. Any instruction from the client to carry out any work after submission of a quotation shall be deemed to be an acceptance of the said offer.

2. Definition

- "assignment" means the work referred to in the quotation.
- "client" means the entity to whom the quotation is addressed.
- "client IP" means the copyright to all artwork and other works produced as part of the assignment, but does not include the Redfox IP, or the Third Party IP.
- "fee" means the fee charged by Redfox as referred to in the quotation.
- "quotation" means any quotation submitted by Redfox to the client in respect of work proposed to be carried out by Redfox.
- "Redfox" means Redfox Media Pty Limited ACN 117 621 815 of 56 Willoughby Road, Crows Nest, New South Wales.
- "Redfox IP" means any working files, layered files, source code and scripts used to produce the assignment, and includes any custom content management system designed and/or implemented by Redfox as part of the assignment.
- "Software" means the software, if any, to be supplied by Redfox as referred to in the quotation, together with all additions, amendments, modifications and improvements supplied by Redfox and all systems documentation relating thereto.
- "Third Party IP" means any illustration, image or font owned by a party other than Redfox or the client, and licensed to Redfox for the purposes of this assignment.

3. Agreement

- 3.1. Redfox hereby agrees to undertake the assignment in accordance with the terms of this agreement.
- 3.2. In consideration thereof, the client shall pay the fee to Redfox in accordance with clause 4 of this agreement.

4. Billing by Redfox

- 4.1. The fee shall be paid by the client to Redfox as follows:-
 - 4.1.1. One third thereof shall be payable upon acceptance of the quotation;
 - 4.1.2. Progress payments (if Redfox so elects) for a percentage of the fee representing the percentage of the assignment then completed, as estimated by Redfox and documented in an invoice to be issued by Redfox to the client;
 - 4.1.3. The balance thereof shall be payable upon completion of the assignment.
- 4.2. The payments referred to in clauses 4.1.2 and 4.1.3 above shall be made within 30 days of the date of the invoice to which they respectively relate.
- 4.3. If the client pays in full any invoice referred to in clause 4.2 above within 7 days of the date of such invoice, a discount of 5% of the invoiced amount shall apply.
- 4.4. Redfox may charge the client simple interest on any invoice which is not paid within the time stipulated in clause 4.2, at the rate of 15% per annum.

5. Variation

In the event that:-

- 5.1. The client requires any additional work to be performed by Redfox; or
- 5.2. The nature or scope of the assignment changes due to any matter or thing outside the control of Redfox; then

Redfox shall charge the client for such additional work at the rate of \$130.00 per hour, plus disbursements.

6. Copyright

- 6.1. Redfox shall own, and retain copyright in, all images, documents and other works produced by Redfox as part of the assignment, until full payment of the fee by the client to Redfox.
- 6.2. Upon full payment of the fee by the client to Redfox:-
 - 6.2.1. Redfox shall assign the copyright of the client IP to the client; and
 - 6.2.2. If the assignment involves the supply of Software by Redfox, Redfox shall grant the client a perpetual licence to use the Software, provided however that if Redfox and the client enter into any separate agreement regarding the supply of the Software ("the Software Supply Agreement") that is inconsistent with the terms of this agreement, then the terms of the Software Supply Agreement shall prevail to the

extent of any inconsistency.

- 6.2.3. Notwithstanding any other provision of this agreement, Redfox shall at all times continue to own and hold copyright over the Redfox IP.
- 6.3. The client acknowledges that the copyright of the Third Party IP shall not be assigned to the client, and covenants that it shall use the Third Party IP in accordance with the terms of any licence thereof, as notified to the client by Redfox.
- 6.4. The client shall not cause or permit any of the following events to occur in relation to the Software:-
 - 6.4.1. The use thereof by any company other than the client, or any person other than an employee or consultant of the client;
 - 6.4.2. Provision of a copy thereof to any other person or company;
 - 6.4.3. Any alteration thereof, including the merger of the whole or any part thereof with any computer program or translation into any computer language.
- 6.5. The client covenants that it shall not use the Client IP for a purpose other than that referred to in the assignment, without the prior written consent of Redfox.

7. Dispute Procedure

The client must notify Redfox in writing of any dispute in relation to any invoice or work performed by Redfox, within 7 days of receipt of the invoice or work to which the dispute relates, failing which the invoice shall be deemed to be due and payable, and that work shall be deemed to have been duly performed.

8. Termination

- 8.1. Either party may terminate this agreement by notice in writing to the other party.
- 8.2. The client acknowledges that, in the event that the client terminates this agreement, Redfox shall not be liable to refund to the client any monies paid by the client to Redfox prior to the date of termination, and the client shall additionally be liable for any work performed by Redfox and not invoiced to the client at the time of termination, at the rate of \$130.00 per hour, plus disbursements.

9. Limitation of liability

- 9.1. Redfox gives no warranty, express or implied or otherwise, as to the work performed by Redfox in carrying out the assignment, other than:-
 - 9.1.1. Any warranty which may be implied by law and cannot legally be excluded; and
 - 9.1.2. Any warranty provided in writing by Redfox to the client.
- 9.2. Without limiting clause 9.1 of this agreement, Redfox's liability for any loss suffered by the client in relation to the assignment shall be limited to rectifying any fault in the work performed by Redfox in carrying out the assignment.
- 9.3. Under no circumstances shall Redfox be liable for any consequential loss or damages, including any loss or damage suffered by the client as a direct or indirect result of the use of any images, systems or other works produced by Redfox in performance of the assignment.

10. Entire Agreement

The provisions contained in this agreement comprise the whole of the agreement between the parties.

11. Non-Merger

The provisions of this agreement shall not merge on completion.

12. Entire Agreement

These items and conditions comprise the whole agreement between the parties.

13. Applicable Jurisdiction

- 13.1. This agreement shall be governed by and construed in accordance with the laws of New South Wales, Australia.
- 13.2. The parties submit to the non-exclusive jurisdiction of the Supreme Court of New South Wales in relation to any dispute arising under this agreement.

14. Interpretation

In this agreement, unless the context otherwise requires:-

- 14.1. Expressions indicating the singular number shall be capable of indicating the plural number and vice versa.
- 14.2. Expressions indicating natural persons shall also be capable of indicating bodies corporate and vice versa.
- 14.3. Headings shall not form part of this agreement and shall not be relevant to the construction hereof.
- 14.4. In the event that any of the provisions of this agreement are unenforceable, then the other provisions of this agreement shall remain of full force and effect.