

1. **The Customer**
 - 1.1 The Customer is specified in item 1 of the Schedule.
 - 1.2 Redden Advertising & Design ('**RAAD**') will perform the work ('**Services**') and supply the goods ('**Goods**') described in item 2 of the Schedule.
 - 1.3 The Customer will notify RAAD in writing of any change in ownership of the Customer within seven days of that change.
2. **Quotes**
 - 2.1 RAAD may give the Customer a quote specifying:
 - 2.1.1 the work to be performed to fulfil the Customer's instructions ('**Order**'); and
 - 2.1.2 an estimate of RAAD's fees to perform this work.
 - 2.2 Where a quote is provided, RAAD will not start performing the work until the Customer has accepted that quote as specified on the quote.
 - 2.3 RAAD may change any quote before the Order is completed to take into account any change in the cost of performing the Order. RAAD must notify the Customer immediately of any change to the quote.
 - 2.4 Each quote is valid for 30 days.
3. **Payment**
 - 3.1 Subject to **clauses 3.2 and 3.3**, RAAD's fees will be calculated in accordance with item 3 of the Schedule. RAAD may, at its option, issue invoices on a periodic basis whether or not the Services have been provided or the Goods have been supplied.
 - 3.2 The Customer must also pay:
 - 3.2.1 RAAD's fees for preliminary work requested (expressly or impliedly) by the Customer which is necessary to perform the Order;
 - 3.2.2 RAAD's fees for work performed due to the Customer changing its instructions;
 - 3.2.3 RAAD's fees for working from poor copy;
 - 3.2.4 RAAD's fees for working with tables or foreign language which were not notified to RAAD before preparing the quote;
 - 3.2.5 RAAD's fees for work performed due to the Customer's corrections, including repagination or reformatting;
 - 3.2.6 RAAD's costs for urgent work, including overtime;
 - 3.2.7 RAAD's fees for handling or storing material or equipment supplied by the Customer;
 - 3.2.8 RAAD's fees for changing or correcting plates, film, bromides, artwork or other documents (including computer files) supplied by the Customer to ensure that the Goods are properly produced and the Services are properly provided;
 - 3.2.9 RAAD's freight costs;
 - 3.2.10 any goods and services (and other) tax payable in respect of the Goods and/or the Services; and
 - 3.2.11 all other costs referred to in these Terms and Conditions.
 - 3.3 If, before a quote is prepared, the Customer does not give RAAD specific instructions in relation to style, type or layout, RAAD may:
 - 3.3.1 use any style, type and layout which, in RAAD's reasonable opinion, is appropriate; and
 - 3.3.2 charge the Customer for any additional work required as a result of the Customer altering the style, type or layout used by RAAD.
 - 3.4 The Customer must pay RAAD's invoices within the time prescribed in item 4 of the Schedule. In this respect, the Customer acknowledges that time is of the essence.
 - 3.5 If the Customer does not pay RAAD's invoices within the time prescribed in item 4 of the Schedule, the Customer:
 - 3.5.1 must pay to RAAD a \$33 (inc GST) account keeping fee for every 30 days that any part of the invoiced amount is outstanding;
 - 3.5.2 acknowledges and agrees that RAAD may issue legal proceedings to recover the amount of the unpaid fees and interest at the rate of 10% per annum; and
 - 3.5.3 acknowledges and agrees that the Customer will be liable for RAAD's legal fees (on a solicitor own client basis) and Mercantile Agents' fees incurred by RAAD in recovering its fees.
 - 3.6 Once the Customer has placed an Order with RAAD, that Order will not be cancelled without the written approval of RAAD. If RAAD agrees to cancel the Order, RAAD will be entitled to be paid for its work in progress to the date of the cancellation.

4. Third parties

If RAAD has to obtain goods and/or services not normally provided by RAAD from a third party to perform the Order:

- 4.1 RAAD is not be liable for any breach of these Terms and Conditions if that breach is connected with the supply of those goods and/or services;
- 4.2 RAAD acquires those goods and/or services as agent for the Customer and is not liable to the Customer in relation to the supply of those goods and/or services. Any claim by the Customer in relation to the supply of those goods and/or services must be made directly against the third party; and
- 4.3 the Customer must pay for those goods and/or services.

5. Copyright

- 5.1 RAAD owns the copyright in the Goods produced and the Services provided unless otherwise agreed in writing.
- 5.2 The Customer authorises RAAD to deal with any copyright owned by the Customer to perform the Order.
- 5.3 The Customer:
 - 5.3.1 warrants that the Customer has copyright in or a licence to authorise RAAD to reproduce all artistic and literary works supplied by the Customer to RAAD to perform the Order and the Customer authorises RAAD to reproduce these works to perform the Order; and
 - 5.3.2 indemnifies RAAD against any liability incurred by RAAD in relation to any breach of copyright or of any related right in these works.
- 5.4 Unless otherwise agreed, all material produced by RAAD in performing the Order (whether or not used to perform the Order) is owned by RAAD.
- 5.5 All disks, tapes, compact disks or other media (other than media supplied by the Customer) used by RAAD to store data to perform the Order are owned by RAAD. RAAD is not required to give the Customer that data. If RAAD agrees to give the Customer that data, RAAD may charge the Customer a fee for doing so.
- 5.6 RAAD is not responsible for storing any data on disks, tapes, compact disks or other media after the Order is completed. If RAAD agrees to store that data, RAAD may charge the Customer a fee for doing so.
- 5.7 The Customer must keep confidential and not use any idea communicated by RAAD to the Customer without RAAD's written consent.

6. Approval

- 6.1 Before the Goods are produced or the Services are provided, the Customer must, by email, mail or facsimile, approve a sample of the Goods or Services provided by RAAD ('**Approval**').
- 6.2 Once RAAD receives the Approval, the Customer is responsible for the content of the Goods or Services.
- 6.3 RAAD does not warrant or represent the accuracy of the content of the Goods or Services and will not be liable or responsible for the content of the Goods or Services.
- 6.4 If the Customer only requires RAAD to supply print-ready Goods and does not require RAAD to approve the final pre-print version of the Goods, the Customer acknowledges and agrees that:
 - 6.4.1 the Goods will be in a print-ready form based on RAAD's operating system and software; and
 - 6.4.2 RAAD will not be liable or responsible for any error which occurs through file transfer or copying, cross-platform copying, pre-press preparation or font mismatching.
- 6.5 The Customer indemnifies RAAD against any claim made against RAAD with respect to the Goods or Services.

7. Customer's property

- 7.1 If the Customer does not collect the Goods and any other material supplied by the Customer to perform the Order from RAAD's premises within 12 months of being notified that the Goods are ready for collection, RAAD may dispose of or sell those Goods or materials and retain any proceeds of sale as compensation for holding and handling those Goods or materials.
- 7.2 RAAD will not insure any of the Customer's property in RAAD's possession. RAAD will, if requested by the Customer in writing and at the Customer's cost, arrange insurance for the Customer's property in RAAD's possession.
- 7.3 RAAD is not liable for the Customer's loss, however caused, of any data stored on disks, tapes, compact disks or other media supplied by the Customer to RAAD.
- 7.4 Subject to **clause 7.3**, RAAD is not liable for the damage, loss or destruction of any of the Customer's property in RAAD's possession unless the damage, loss or destruction is due to RAAD's failure to exercise reasonable care in handling or storing that property.

8. Delivery

- 8.1 RAAD will notify the Customer when the Goods are ready for collection. Unless otherwise agreed, the Customer must collect the Goods and any other material supplied by the Customer to perform the Order from RAAD's premises within five business days.
- 8.2 The risk in the Goods passes to the Customer:

- 8.2.1 if RAAD delivers the Goods to the Customer, on delivery; and
- 8.2.2 otherwise, when RAAD notifies the Customer that the Goods are ready for collection.
- 8.3 If the Customer requires the Goods or Services to be supplied by a specific date, RAAD will use its best efforts to comply with that request. However, RAAD is not liable if the Goods or Services are delivered to the Customer after that date.
- 8.4 RAAD will not insure any Goods delivered to the Customer. RAAD will, if requested by the Customer in writing and at the Customer's cost, arrange insurance for the transportation of the Goods.
9. **Web sites**
- 9.1 RAAD's contribution to the Customer's web site will be recognised in the metatags of the Customer's web site.
- 9.2 The Customer must supply a username and a password to RAAD to produce the Customer's web site if the Customer has pre-arranged domain hosting for its web site.
- 9.3 RAAD will only supply the login code to the Customer:
- 9.3.1 at the request of the Customer; and
- 9.3.2 after RAAD's invoices have been paid.
- 9.4 If the Customer does not pay RAAD's invoices in respect of the production of the Customer's web site within the time prescribed by item 4 of the Schedule, RAAD may remove the Customer's web site from the Internet.
- 9.5 Once RAAD has given the login code to the Customer, RAAD accepts no liability for the content or function of the Customer's web site where:
- 9.5.1 the Customer or a third party has altered or edited the web site; or
- 9.5.2 the web site is hosted by the Customer or a third party.
- 9.6 RAAD may recommend to the Customer domain hosting and/or external web site services based on the past performance and/or reputation of the provider of those services ('Provider'). RAAD:
- 9.6.1 does not know, represent or warrant the financial position of any Provider it recommends; and
- 9.6.2 is not responsible for any loss suffered by the Customer if the Provider ceases to trade or becomes the subject of bankruptcy proceedings or becomes insolvent within the meaning of the *Corporations Act 2001* (Cth).
- 9.7 The Customer acknowledges and agrees that it will make its own enquiries as to the financial position and suitability of any Provider recommended by RAAD.
10. **Retention of title**
- 10.1 The Goods remain the property of RAAD until RAAD's invoices have been paid in full.
- 10.2 If the Goods are sold by the Customer before RAAD's invoices have been paid, the Customer must hold the proceeds from the sale of the Goods on trust for RAAD.
- 10.3 If the Customer becomes the subject of bankruptcy proceedings or becomes insolvent within the meaning of the *Corporations Act 2001* (Cth), RAAD is:
- 10.3.1 immediately entitled to retake possession of the Goods without notice to the Customer; and
- 10.3.2 authorised to enter the Customer's premises to do so.
- 10.4 If the Customer does not pay RAAD's invoices within the time prescribed by item 4 of the Schedule or the Customer breaches these Terms and Conditions, the Customer acknowledges and agrees that RAAD is entitled and authorised to enter the Customer's premises to retake possession of the Goods supplied to the Customer.
11. **Liability**
- 11.1 RAAD gives those warranties implied by consumer protection legislation in relation to the Goods and Services. All other warranties are excluded to the extent permitted by law.
- 11.2 If the Customer suffers loss or damage in connection with the Goods and/or Services the liability of RAAD will, at the option of RAAD, be limited to:
- 11.2.1 the resupply of the Goods and/or Services; or
- 11.2.2 the payment of the cost to resupply the Goods and/or Services.
12. **Force majeure**
- RAAD's obligations will be suspended if any event occurs which is beyond the control of RAAD and affects the ability of RAAD to perform its obligations.
13. **Defective Goods or Services**
- 13.1 Subject to **clause 13.2**, if the Customer believes that the Goods or Services are defective the Customer must:

- 13.1.1 notify RAAD in writing of the defect within 14 days of receipt of the Goods or Services; and
- 13.1.2 return the defective Goods to RAAD.
- 13.2 RAAD is not liable for any defective Goods or Services where the Customer has:
 - 13.2.1 provided its Approval in respect of the Goods or Services; or
 - 13.2.2 directed RAAD not to provide a sample of the Goods or Services for the Customer's Approval.
- 13.3 The Customer is deemed to have accepted the Goods or Services unless it notifies RAAD otherwise in writing within 14 days of receipt of the Goods or Services.
- 13.4 If, on inspection of the defective Goods or Services, RAAD is satisfied that the Goods or Services are defective, RAAD will, at the Customer's option:
 - 13.4.1 replace the Goods or Services; or
 - 13.4.2 refund to the Customer the cost of the Goods or Services.
- 14. **Privacy Act**

By these Terms and Conditions, the Customer acknowledges and agrees that the *Privacy Act 1998* (Cth) allows RAAD to give personal information about the Customer to a credit reporting agency.
- 15. **Guarantee**

In consideration of RAAD providing the Goods and/or Services, the director of the Customer who signs this contract:

 - 15.1 guarantees that the Customer will perform all obligations under these Terms and Conditions; and
 - 15.2 indemnifies RAAD against any loss RAAD suffers due to the Customer's failure to perform any of its obligations under these Terms and Conditions.
- 16. **General**
 - 16.1 The Customer acknowledges and agrees that the work carried out by RAAD will be governed solely by these Terms and Conditions.
 - 16.2 These Terms and Conditions are governed by the laws of South Australia and the Commonwealth of Australia.
 - 16.3 The parties submit to the jurisdiction of the Courts of South Australia and the Commonwealth of Australia. Any proceeding brought in the Federal Court of Australia must be instituted in the South Australian District Registry.