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Terms and Conditions

Definitions

- 1.1. "GJI" means GJI Pty Ltd A.C.N. 071 491 720 and its successors and assigns.
- 1.2. "the Client" means the person(s) or entity who is the Applicant pursuant to the attached Application for Credit.
- 1.3. "Delivery" means the receipt of the Deliverables by the Client or the dispatch of the Deliverable(s) in accordance with the Client's instructions.
- 1.4. "Material" means any products or materials provided to GJI by the Client to be dispatched on the Client's behalf.
- 1.5. "Deliverables" means such of the goods, services and other material supplied by GJI to the Client or as otherwise requested by the Client.

2. Orders

- 2.1. All orders are to be in writing and in a form approved by GJI.
- 2.2. All Deliverables supplied by GJI shall be on the basis of these terms and conditions of supply and, unless specifically agreed to in writing by GJI, to the exclusion of anything to the contrary in the terms of the Client's order purporting to override them.

3. Pricing

- 3.1. The price shall be:
 - 3.1.a. GJI's quoted price provided the Client accepts GJI's quotation within thirty (30) days of issue; or
 - 3.1.b. the current price at the date of Delivery if no price is quoted.
- 3.2. GJI may change the price:
 - 3.2.a. at any time prior to acceptance of the quote by the Client; or
 - 3.2.b. in the event of a variation to the order; or
 - 3.2.c. if the Deliverables are not commenced within 3 months of order.
- 3.3. Except to the extent they are expressly included, prices are exclusive of GST, other taxes and duties, postage, transport costs (e.g. freight and courier) and the handling and storage of any products or materials provided by the Client.
- 3.4. Any postage quoted is an estimate only and subject to change.
- 3.5. GJI will charge postage on the Deliverables to the Client's account with Australia Post.
- 3.6. Any charges made on GJI's account with its suppliers with respect to the Deliverables shall be charged to the Client with a surcharge.

4. Payment

- 4.1. Unless the Client has a credit account with GJI, work on the Deliverables will commence on receipt of payment in full.
- 4.2. Otherwise, payment shall be made within fourteen (14) days from invoicing by GJI, notwithstanding that the Deliverables may not have been Delivered.
- 4.3. Payments after fourteen (14) days incur an administrative fee of \$50 for every attempt to collect payment, plus interest at the rate of 2% per month calculated on the daily balance.
- 4.4. Any expenses or costs incurred by GJI in recovering any outstanding payments, including debt collection or legal fees (on a solicitor and own client basis), shall be paid by the Client.

5. Delivery Dates

- 5.1. Specified Delivery dates are an estimate only and GJI does not warrant that Delivery will occur on the specified date.

6. Proof & Errors

- 6.1. Any claim by the Client that the Deliverables are not supplied in accordance with the order must be made in writing within four (4) days from the date of Delivery or otherwise the Deliverables are deemed satisfactory and in accordance with the order.
- 6.2. Upon receipt of a proof of the Deliverables by GJI, the Client shall promptly advise of its approval or otherwise of the proof. Once approved, the Client shall be responsible for GJI's cost to correct any subsequent errors detected or other changed required at GJI's current price.

7. Client's Obligations

- 7.1. The Client:
 - 7.1.a. will, if providing GJI any Material:
 - (a) ensure the Material is of good quality;
 - (b) ensure sufficient quantities of Materials are provided to GJI allowing for spoilage by GJI (which GJI shall not be liable for);
 - (c) provide reasonable notice to GJI of any changes to the Material to be provided (which shall be a variation);
 - (d) insure the Material against loss or damage (risk remains with the Client);
 - 7.1.b. will not delay completion of the Deliverables in any way.
 - 7.1.c. must ensure that the Deliverables complies with the law.

8. Intellectual Property

- 8.1. GJI acquires no intellectual property rights in the Client's data or Material and will not copy, adapt or modify the Client's data or Material except to the extent required to complete the Deliverables.
- 8.2. The Client warrants to GJI that in using the Client's data and Material, GJI will not infringe the intellectual property rights of others and indemnifies GJI against any loss, cost or damage should this occur.
- 8.3. Notwithstanding any other term, the intellectual property rights arising from the Deliverables is owned by GJI and shall only be used by the Client to the extent necessary to benefit from the Deliverables.
- 8.4. GJI may refuse to do anything that in its opinion may infringe upon the intellectual property rights of others, provided that notice of such refusal is promptly given to the Client.

9. Software

- 9.1. If GJI provides the Client with access to GJI's software as a Deliverable then:
 - 9.1.a. GJI provides the Client with a non-exclusive, non-transferable, revocable licence to use the software;
 - 9.1.b. use of the software shall be as directed by GJI for the terms specified by GJI;
 - 9.1.c. GJI is not required to provide support, updates or new releases of the software and the provision of support, upgrades or new releases will be the subject of a separate agreement;
 - 9.1.d. GJI retains ownership of the software and the intellectual property rights in it whether in its original form or as modified by GJI during the term of the licence to the Client.
 - 9.1.e. The Client shall not modify the whole or any part of the software or combine or incorporate the whole or any part of the software in any other program or system without the prior consent in writing of GJI.

10. Privacy

- 10.1. GJI and the Client will each comply with the Privacy Act 1988 (Cth) ("Act") with respect to the handling of all personal information (as defined in the Act).
- 10.2. The Client must co-operate with any reasonable request by GJI to enable GJI to comply, or to assist it in complying, with its obligations under the Act.

- 10.3. The Client is responsible to ensure that the Deliverables comply with the law including the Act.

11. Risk

- 11.1. All Deliverables shall be at the risk of the Client from the date of dispatch of the Deliverables in accordance with the Client's instructions and the Client shall insure fully against such risk.

12. Cancellation or Changes to Orders

- 12.1. Cancellation of, or changes to, orders will not be accepted unless agreed to in writing by GJI.
- 12.2. If this occurs, the Client shall pay GJI for all Deliverables completed (at the current price on cancellation) and any costs incurred by GJI for the Deliverables.

13. Statements by GJI

- 13.1. Subject to the provisions of the Competition and Consumer Protection Act, or any other relevant Federal or State legislation which by law cannot be excluded, restricted or modified, no warranty (express or implied) is made by GJI (including as to the quality or fitness for purpose of the Deliverables) unless otherwise expressly specified in these terms and conditions.
- 13.2. GJI provides no warranty regarding:
 - 13.2.a. the success of Client's desired outcomes;
 - 13.2.b. the integrity (including accuracy and completeness) of the Client's data;
 - 13.2.c. the suitability of the Client's creative design;
 - 13.2.d. whether the Deliverables comply with the law;
 - 13.2.e. accessibility to GJI's on-line software for more than 95% of the time;
 - 13.2.f. any part of the Deliverables performed by third parties.
- 13.3. GJI shall not be liable to the Client or any third party whatsoever for any damages, losses (including consequential losses) or costs for any breach of a condition or warranty to the Client (express or implied) or negligence or in any circumstances for the Deliverables.
- 13.4. Should liability arise for any reason whatsoever notwithstanding this clause, liability of GJI shall be limited to:
 - 13.4.a. The refund of the price paid by the Client for the Deliverables or the issue of a credit note for such amount; or
 - 13.4.b. The replacement of the Deliverables or the supply of equivalent Deliverables.

14. Indemnity

- 14.1. The Client releases GJI from and indemnifies it against all costs, losses, damages, expenses or other monies incurred or lost (including legal costs on a solicitor and own client basis) arising, directly or indirectly, out of the Deliverables or a breach by the Client of any of its obligations pursuant to these terms and conditions.

15. Default

- 15.1. If the Client fails to: pay any monies due to GJI; observe or perform any of its obligations under these Terms & Conditions or commits an act of bankruptcy or insolvency or ceases or threatens to cease carrying on its business, GJI may (in addition to any other remedies it may have):
 - 15.1.a. require immediate payment of all money owed by the Client;
 - 15.1.b. immediately suspend or cancel the Client's credit account;
 - 15.1.c. require cash pre-payment from the Client before carrying out further work;
 - 15.1.d. cease any further work on behalf of the Client and terminate, without incurring any liability, any agreement in relation to any work not yet started; and
 - 15.1.e. retain possession of any Material supplied by the Client until payment is received in full.

16. Retention of Title

- 16.1. Notwithstanding Delivery, right title and interest in the Deliverables remain with GJI until the Client has made payment of any monies owing.
- 16.2. In the event of a default by the Client, including the payment of any monies owing, GJI shall have the right (without giving notice) to retake possession of the Deliverables and the Client hereby authorises GJI or its personnel to enter the premises upon which the Deliverables are housed or stored for the purpose of retaking possession of them and GJI shall not be liable for any cost, losses, damages, expenses or other monies incurred or lost by the Client as a result, directly or indirectly, of GJI retaking possession of the Deliverables.

17. Charge

- 17.1. the Client charges all their property, both present and future, to GJI and authorises GJI to execute a consent form or other documentation to register such security or for the purpose of registering a caveat over the title of any real property of the Applicant at any time. The security or caveat shall only cover such property that is necessary to meet the level of liability, damage, loss and expense incurred or anticipated to be incurred by GJI (as determined by GJI).

18. Force Majeure

- 18.1. If by reason of any fact, circumstance, matter or thing beyond the control of GJI, GJI is unable to perform in whole or in part any of its obligations, GJI shall be released of that obligation and shall not be liable to the Client whatsoever.

19. Changes of Ownership

- 19.1. Any change of controlling ownership, legal status or financial position of the Client shall be advised to GJI in writing immediately.

20. Confidentiality

- 20.1. The Client agrees that all manuals, price lists, marketing material and any or all items displaying any logos or trademarks owned by GJI shall remain confidential.

21. Severability

- 21.1. If it is held by any Court that any part of these terms and conditions are void, voidable or unenforceable then that part shall be severable from and shall not affect the continued operation of the other terms and conditions.

22. Jurisdiction

- 22.1. Any dispute arising between GJI and the Client shall be governed by the law of the State of Queensland and all disputes to be settled shall be subject to the jurisdiction of the appropriate Court in the State of Queensland.

23. Changes or Alterations to the Terms and Conditions

- 23.1. Any indulgence or allowance or relaxation of these terms shall not constitute a waiver of the rights of GJI under these terms and conditions.
- 23.2. Any variation to these terms and conditions at the Client's request must be agreed to in writing.

These terms and conditions are subject to change by GJI upon providing written notice to the Client.