

End of Work Pty Ltd ACN 110 584 873 of Suite 14, 47-55 John Street Leichhardt in the State of New South Wales (EoW), EoW provides brand strategy and identity design, corporate and marketing communications, digital and film production, environmental and graphic design services to its clients. These General Terms of Trade (General Terms) apply to all Services provided by EoW to its clients, to the exclusion of any purchase order, or any other document, submitted by the Client to EoW. In consideration of the Client complying with these Terms, EoW agrees to provide the Services to the Client.

1 The Services and the Term

- 1.1 EoW will upon written acceptance of any request received from the Client, provide the Client with the requested services (Services).
- 1.2 The terms set out in any acceptance communicated by EoW are valid for 30 days and subject to these General Terms. EoW reserves the right to engage third party providers at its discretion to deliver the Services to the Client subject to these General Terms.
- 1.3 EoW will ensure that the products it creates for the Client meet the specifications provided to EoW by the Client. EoW will make all necessary corrections to those products as notified by the Client in accordance with these terms. The parties however agree that due to the inherently subjective nature of design, the outcomes and results of the use of designs cannot be assured. EoW will not be liable to the Client for any failure to achieve the Client's intended outcome of the Services, provided EoW has provided the Services in accordance with these Terms.
- 1.4 The Client agrees to deal only with EoW in relation to the Services; and further agrees to not make any direct contact with any of EoW's third party suppliers.
- 1.5 The Agreement commences on the date that EoW agrees in writing to provide the Services; and shall continue until the completion of the performance of the parties' obligations; or the earlier lawful termination of the Agreement.

2 Financial Arrangements

- 2.1 The Client will pay the total fee specified by EoW, as revised from time to time, in accordance with the following payment schedule:
 - a. Prior to commencement of services 50% of the total fee (Deposit). EoW may not commence any Services until the deposit has been paid in full;
 - b. At the completion of each Stage of the Services, the fee for each Stage;
 - c. At the completion of the Services, the balance remaining of the total fee.
- 2.2 The Deposit is only refundable if EoW has not fulfilled its obligations to deliver the Services required under the Agreement. A Deposit amount of thirty (30) percent of the fee payable is not refundable if the Services have been started and the Client terminates the Agreement through no fault of EoW. The Client agrees that the Deposit is a genuine estimate of the Services that EoW is to provide and does not constitute a penalty.

2.3 In addition to the fee quoted by EoW, the Client will pay for expenses incurred by EoW in connection with the provision of the Services including but not limited to couriers, printing, travel expenses including accommodation, purchase of third party materials and services, photography, equipment rental, stock photography and third party licensing fees (Disbursements).

2.4 The Client must pay each invoice from EoW by the due date specified on the invoice. EoW may charge the Client interest on overdue invoices at the rate of 1.5% per month calculated daily and recover all the reasonable expenses (including debt collection commission) and legal costs incurred by EoW in the enforcement of the Client's obligations and the recovery of monies due from the Client to EoW. EoW reserves the right to suspend work until all outstanding invoices are paid.

2.5 The Client may not deduct, reduce or withhold any payments due to EoW under this Agreement by reason of claims or alleged claims against EoW.

2.6 The Client must notify EoW within 7 days of receipt, of any disputed amount in any EoW invoice, including written reasons for the dispute. Otherwise the invoice will be deemed to have been accepted by the Client. Undisputed parts of all invoices must still be paid by the due date.

3 Changes to the Services

- 3.1 The Client agrees it will pay all additional fees for any changes to the Services requested by the Client which are outside the scope of the fees quoted by EoW.
- 3.2 The Client agrees that if it requests EoW to perform additional services for the Client; or changes or additions to the specifications provided by it to EoW that require EoW to revise the Services, and/or changes to the timetable for the delivery of the Services; then EoW reserves the right to provide the Client with a revised quote including revised fees for approval by the Client prior to commencing work on the changes and/or additions.
- 3.3 If a revised quote is provided to the Client, EoW will not commence work on the changes until the revised quote is accepted by the Client in writing and if necessary, will suspend work on the existing work until an agreement is reached between EoW and the Client regarding the changes.
- 3.4 If a new agreement for Services is agreed between EoW and the Client, any previous agreement will be superseded and replaced by the new quote and will not otherwise affect these General Terms which will remain in force.
- 3.5 If, in providing the Services to the Client EoW has purchased third party materials, and/or EoW has entered into agreements with third parties for the provision of materials or services and subsequent changes requested by Client results in those materials or services no longer being required, the Client will pay the cost, if any, of those materials and services purchased or the costs of cancellation, provided such costs were authorised by the Client in writing prior to being incurred, if any, of those third party services or materials, and such material and services shall become the property of the Client upon the payment by the Client.

4 Client Materials

- 4.1 The Client agrees to promptly respond to any reasonable request from EoW for information, instructions, Approvals and/or materials to enable EoW to perform the Services and further the Client acknowledges that any delay in complying with EoW's requests may result in a delay in the provision of the Services. EoW will not be liable for any damage caused to the Client as a result of any such delay.
- 4.2 The Client agrees to provide EoW with accurate information regarding its products, goods and services and to check all material prepared by EoW for accuracy. EoW shall be entitled to rely on such information and materials provided by the Client as being accurate.

5 Revisions and Approval

- 5.1 EoW will offer the Client the opportunity to provide feedback to any draft or revision. EoW may charge and the Client must pay for EoW's provision of additional Services at EoW's standard hourly rate if the Client requires more reviews or revisions than was agreed in the estimate, quote or scope of works at the commencement of the Services.
- 5.2 EoW will submit to the Client Drafts, copy and layouts from time to time and may require the Client's approval of those materials prior to continuing further work on the Services.
- 5.3 Within 14 days of the Client's receipt of Drafts, copy, layouts or other materials for approval, the Client will give EoW a notice of acceptance or a notice advising the revisions which the Client requires to be made. Any costs or losses incurred by any delay in response beyond the agreed 14 days shall be to the account of the Client. Such notice shall clearly identify and provide sufficient information detailing the Client's concerns so EoW may undertake the work required by the Client.
- 5.4 All changes, corrections, objections or amendments required to be made by EoW will be subject to these Terms, including but not limited to clause 3, provided that any changes required because of EoW's failure to adhere to specifications provided by the Client shall be made at EoW's cost.
- 5.5 The Client's written approval will be deemed authority given by the Client to EoW to purchase production materials, prepare proofs and enter into contracts with third parties for the provision of Services.
- 5.6 For those services relating to the development of an application (including for use on mobile devices or on the social media website known as Facebook), EoW will require Client to test and approve the application before launch and following launch, EoW will fix any bugs or other defects in the application that are identified within 7 days of the date of launch and thereafter at the Client's costs based on EoW's time and materials costs.
- 5.7 EoW's standard hourly rate is AU\$200 per hour, which may be amended by EoW from time to time and notified to the Client, or which may otherwise be set out in an estimate, quote or scope of works.

6 Intellectual and other Property Rights

- 6.1 In this clause, "Rights" includes copyright, trademark, design, patent rights or any intellectual property rights by statute, in equity and by common law.
- 6.2 Provided the Client pays all fees, Disbursements and amounts payable under this Agreement relating to the applicable artwork, copy or other work created by EoW, all Rights in the Final Artwork created by EoW for the Client including ownership of tangible property and all Rights and all physical material purchased by EoW for the Client shall belong to Client, subject to clauses 6.3 and 6.4.

- 6.3 All Rights in third party photographs, negatives, images and materials remain the exclusive property of the original owners unless expressly assigned to EoW or the Client. The costs of any assignment will be paid for by the Client upon the Client's written request.
- 6.4 Upon request by the Client, EoW will sign all documents and do all things as may be necessary to vest, confirm, perfect and record ownership of the Final Artwork by the Client in accordance with this Clause 6.4. This obligation survives the termination of this Agreement;
- 6.5 Without limiting clause 6.4, upon payment for its Services by the Client, EoW grants to the Client a royalty-free, non-exclusive, permanent, irrevocable and worldwide license (which can be sub-licensed) of any other existing Rights owned or licensed by EoW concerning the Final Artwork to permit the Client to use the Final Artwork and to exercise the ownership rights conferred on the Client by this Clause 6.4.
- 6.6 As copyright is assigned to the Client in the course of the Agreement, so too are the Moral Rights. In the event that the Moral Rights cannot be assigned due to the operation of law, the Client is granted a license to be able to modify the copyright in any way they wish and not make reference to the original author, and such will not be an impeachment of the Moral Rights.
- 6.7 The Client agrees EoW may use any general knowledge, skill and intelligence gained about the Client's products, services or market gained in the course of providing the Services to the Client, excluding any Confidential Information belonging to the Client.

7 EoW may Publicise its Designs Created under this Agreement

- 7.1 The Client agrees to EoW recording and publicising, at EoW's discretion, EoW's involvement in the design and creation of the Final Artwork upon completion and only after Final Artwork has entered the public domain. Publicity may include presentation of the Final Artwork in a portfolio, on EoW's website, on Social media platforms, or in marketing materials promoting the services provided by EoW. Any publicity will not include any Confidential Information of the Client.

8 Suspension of Services and Termination

- 8.1 This Agreement may be terminated at any time by the Client for any reason upon the giving of written notice to EoW, which will be effective immediately upon the other parties receipt of the notice or on a day as mutually agreed between the parties.
- 8.2 EoW further reserves the right to immediately suspend the performance of the Services or to terminate this Agreement if the Client:
- becomes or threatens to become or is at risk of being subject to any insolvency administration, or
 - is in breach of the terms of this Agreement, and fails to rectify it within 14 days of notification by EoW; or
 - does not make payment of an invoice issued by EoW to the Client on or before the due date specified on the invoice and 30 days have elapsed since EoW has given the Client written notice of such failure, or
- 8.3 In the event of suspension of the Services or termination of this Agreement by either party for any reason:
- EoW will issue an invoice to the Client for all work performed and disbursements incurred for the provision of the Services prior to the suspension or termination, and
 - the Client agrees it will pay EoW the amount payable within 30 days of the date of the invoice, and

c. the Services will not be resumed until such invoice is paid in full by the Client.

8.4 The Client acknowledges that included in the amount to be invoiced pursuant to clause 8.3(a) will be any fees or charges by third parties for the cancellation or delivery of any orders for materials or services not yet provided but ordered or requested by EoW as at the date of the suspension/termination for the provision of the Services to the Client provided that such fees or charges were approved in writing by the Client prior to their being incurred.

8.5 Where the Services are suspended for 30 or more days for any reason, EoW reserves the right to issue revised fees for approval by the Client before provision of the Services is resumed.

8.6 If EoW exercises its right to suspend or terminate this agreement pursuant to clause 8.2, EoW will not be liable for any loss caused to the Client by the suspension or termination.

9 Warranties and Disclaimer of Warranties

9.1 The Client warrants to EoW that it owns all of the right, title and interest in all materials it gives to EoW to perform the Services including photographs, images, graphics, trademarks and writings and use of those materials does not infringe the rights of any third party.

9.2 Subject to clause 9.1, EoW warrants to the Client that the Final Artwork arises from the original work of EoW, and use of the Final Artwork does not infringe the rights of any third party.

9.3 Except for the express representation and warranty that EoW shall provide the Services professionally and within a reasonable time, and the warranty in Clause 9.2, EoW makes no warranties and explicitly disclaims any representation, warranty or guarantee of any kind whether express or implied.

10 Limitation of Liability

10.1 EoW shall not be liable for any delay in the delivery of the Services or any omission, error or claim arising from the Services or any material prepared, provided or commissioned (or which ought to have been prepared, provided or commissioned) which is not due solely to EoW's negligence and subject to clause 10.2. In any event, the maximum aggregate extent of EoW's liability in respect of any claims or demands brought by the Client in connection with this Agreement shall be limited to a sum equal to the total fee paid to EoW in respect of the service in relation to which the claim or demand is made.

10.2 EoW shall not be liable to the Client for any act or omission to the extent that such act or omission arises from any event outside EoW's reasonable control. If EoW is prevented from fulfilling its obligations under these Terms by reason of any event outside its reasonable control, it shall not be liable for any breach of contract. Furthermore, EoW shall be entitled without any liability to the Client to extend the time or times for delivery of the Services or for performing its obligations under these Terms by a period at least equivalent to that during which such delivery or performance has been prevented by such event.

10.3 The Client acknowledges and agrees that EoW is not responsible or liable for third party actions or omissions relating to the following:

a. that any website or any page, blog, tool or other facility located on or used by accessing any website is continuously available or that it is error-free or virus-free;

b. any changes in or the operations of any website, email service provider or third party platform (including any changes in the application protocol interface (API) used by any such website or platform);

c. the failure to properly send or receive communications via the internet, or to make available any content on any website, due to any interference or failure;

d. the contents of any website or any component of a website (including for any published content that is defamatory or in contempt of any legal or other proceedings; indecent, obscene, vulgar, pornographic, offensive or of doubtful propriety; of a menacing character; discriminatory to any group of persons including groups defined by reference to colour, race, sex, origin, nationality or ethnic or national origins; or offensive or denouncing of political or religious beliefs);

e. any third party claim, action, demand or proceeding that the publication of content on a client's website infringes a third party's intellectual property rights (however, EoW will use reasonable efforts to provide customary accreditation for third party content published on Client's website and facilitate prompt pull-down following receipt of a third party rights infringement notice).

11 Indemnities

11.1 The Client agrees to indemnify and to forever keep indemnified EoW, its officers, directors, agents, employees and assigns from all and any loss, claim, damage, liability, compensation, expense excluding consequential financial loss it may incur as a result of the acts and omissions of the Client and the Client's and its subsidiaries' employees and agents in breach of its obligations under this Agreement; except to the extent that any loss, claim, damage, liability, compensation or expense is caused or contributed to by EoW or is not authorised by this agreement

11.2 EoW agrees to indemnify and to forever keep indemnified the Client, its subsidiaries, and the Client's and its subsidiaries' officers, directors, agents, employees and assigns from all and any loss, claim, damage, liability, compensation or expense they may incur as a result of:

a. the infringement or alleged infringement by any of those indemnified of any third party intellectual property rights arising out of the use by those indemnified of the Services (including the Final Artwork) provided under this Agreement to them by EoW or EoW's employees, agents, contractors, or representatives; and

b. the acts and omissions of EoW and its employees and agents in breach of its obligations under this Agreement

except to the extent that any loss, claim, damage, liability compensation or expense is caused or contributed to by the Client or is not authorised by this agreement.

12 Dispute resolution

12.1 The parties must endeavour to settle any dispute in connection with the Contract by mediation. Such mediation is to be conducted by a mediator who is independent of the parties and appointed by agreement of the parties, or failing agreement within seven (7) days of receiving any parties notice of dispute, by a person appointed by the Chair of Resolution Institute, phone: 0292513366, email: infoaus@resolution.institute or the Chair's designated representative. The Resolution Institute mediation rules shall apply to the mediation. It is a condition precedent of the right of either party to commence arbitration or litigation other than for interlocutory relief, that it has first offered to submit the dispute to mediation.

12.2 This clause does not limit a parties right to seek injunctive relief.

13 Confidential Information

- 13.1 In this clause, "Confidential Information" means all and any information concerning the business or finances of EoW and the Client and including all recommendations, concepts and materials shown by EoW to the Client which is already in the public domain, other than information which comes into the public domain as a result of a breach of these Terms.
- 13.2 The Client agrees it shall not at any time use or disclose without EoW's permission any Confidential Information relating to EoW or its business or disclose the contents of or make any documents supplied by EoW either in whole or in part, or use them for any purposes other than those for which they were handed over, or make any copies of such documents.
- 13.3 EoW agrees it shall not at any time use or disclose without the Client's permission any Confidential Information relating to the Client or its business or disclose the contents of or make any documents supplied by the Client to any third party, either in whole or in part, or use them for any purposes other than those for which they were handed over, or make any copies of such documents.

14 Non-Exclusivity

- 14.1 The Client acknowledges that this agreement does not create an exclusive relationship between the parties. EoW may provide services to any other client including entities the Client may regard as competing in its market. EoW acknowledges a duty to ensure that no Confidential Information of the Client is disclosed or supplied to any other party.
- 14.2 The Client must not use the name of EoW in any manner that suggests EoW endorses, or is associated with the Client's business, products or services.

15 Force Majeure

- 15.1 EoW will not be liable for any delay or failure to perform its obligations under a Statement of Work or this Agreement if that delay is due to Force Majeure.
- 15.2 If a delay or failure of EoW to perform its obligations is caused or anticipated due to Force Majeure the performance of EoW's obligations will be suspended.
- 15.3 If a delay or failure by EoW to perform its obligations due to Force Majeure exceeds sixty (60) days, either party may immediately terminate this Agreement on providing notice in writing to the other party, in which even EoW will not be deemed to have breached this Agreement.
- 15.4 If this Agreement is terminated pursuant to clause 15.3, EoW will refund monies previously paid by the customer under this Agreement for its services which were not provided due to Force Majeure.

16 Restrictive Covenant

- 16.1 The Client agrees that it will not endeavour to entice away from EoW any employee of EoW who has worked on the Services for a period of two years after the completion of the Services.
- 16.2 The Client agrees that it will not endeavour to deal directly with any third party supplier of EoW which has provided any Goods or Services to EoW for use by the Client.

17 No Reliance or Representations

- 17.1 The customer warrants that it has not relied on any representation made by EoW which has not been stated expressly in this Agreement, or relied upon any descriptions, illustrations or specifications contained in any document including websites or publicity material produced or provided by EoW.
- 17.2 The customer acknowledges that to the extent EoW has made any representation which is not otherwise expressly stated in this Agreement, the customer has been provided with an opportunity to independently verify the accuracy of that representation.

18 General Provisions

- 18.1 These General Terms together with the fees and specifications of Services agreed by the parties represent the entire agreement and understanding between EoW and the Client (and therefore supersede any previous agreement or arrangements).
- 18.2 If a provision in this Agreement is unenforceable, illegal or void then it is severed without affecting the other provisions of these Terms and the rest of the Terms will remain in full force.
- 18.3 The non-enforcement by either party of any breach of these General Terms shall not prevent their subsequent enforcement and shall not be deemed to be a waiver of any subsequent breach.
- 18.4 Any notice, request or communication to be given under these General Terms must be in writing and delivered as follows:
- hand delivered, or
 - transmitted electronically to the email address of the party as advised from time to time, or
 - sent by post to the registered office of the other party.
- 18.5 These General Terms shall be governed by and construed in accordance with the laws of the New South Wales and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of New South Wales.

19. Data Storage

- 19.1 For Services relating to video production, the Client acknowledges that EoW does not store video files in archive, nor take any responsibility for any of those video files after provision of the Services has been completed. At the Client's request, those video files can be downloaded onto a 1TB hard disk and provided to the Client at the Client's cost, based in EoW's time and materials costs.

20 Interpretation

- 20.1 In this agreement:

"Drafts" means all artwork and writings including but not limited to concepts, preliminary designs, sketches, visual presentations and other documents developed by EoW which may or may not have been shown to the Client and which are not Final ArtWork.

"Final ArtWork" means the final version of the artwork, materials or concepts prepared by EoW and approved in writing by the Client.

"Force Majeure" means a circumstance beyond the reasonable control of a party which results in the party being unable to observe or perform on time an obligation under this Agreement.