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## SEO Web Logistics – Terms & Conditions of Trade

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### 1. Definitions

- 1.1 “Contract” means the terms and conditions contained herein, together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.
- 1.2 “SEO WL” means SEO Web Logistics ATF Walsh Insoles Trust T/A SEO Web Logistics, its successors and assigns or any person acting on behalf of and with the authority of SEO Web Logistics ATF Walsh Insoles Trust T/A SEO Web Logistics.
- 1.3 “Customer” means the person/s, entities or any person acting on behalf of and with the authority of the Customer requesting SEO WL to provide the Services as specified in any proposal, quotation, order, invoice or other documentation, and:
- (a) if there is more than one Customer, is a reference to each Customer jointly and severally; and
  - (b) if the Customer is a partnership, it shall bind each partner jointly and severally; and
  - (c) if the Customer is a part of a Trust, shall be bound in their capacity as a trustee; and
  - (d) includes the Customer’s executors, administrators, successors and permitted assigns.
- 1.4 “Incidental Items” means any goods, documents, copy, designs, drawings or materials supplied, consumed, created or deposited incidentally by SEO WL in the course of it conducting, or supplying to the Customer, any Services.
- 1.5 “Services” mean all Services supplied by SEO WL to the Customer at the Customer’s request from time to time.
- 1.6 “SNT” means any Social Network Tool being a social media platform and/or application which is accessible on the internet through the World Wide Web and which provides multimedia content via a graphical user interface (including, but not limited to Facebook, Twitter, LinkedIn, Pinterest, etc.).
- 1.7 “Web Site” means a location which is accessible on the Internet through the World Wide Web and which provides multimedia content via a graphical User Interface.
- 1.8 “Prohibited Content” means any content on any media (including advertising, posts, comments, etc.) that:
- (a) is, or could reasonably be considered to be, in breach of the Competition and Consumer Act 2010 (Cth); or any other applicable law or applicable industry code; or
  - (b) contains, or could reasonably be considered to contain, any misrepresentations; or is, or could reasonably be considered to be, misleading or deceptive, likely to mislead or deceive or otherwise unlawful; or
  - (c) is, or could reasonably be considered to be, in breach of any person’s Intellectual Property Rights.
- 1.9 “Confidential Information” means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party’s intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, “**Personal Information**” such as: name, address, D.O.B, occupation, driver’s license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.10 “Cookies” means small files which are stored on a user’s computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular customer and website, and can be accessed either by the web server or the customer’s computer. **If the Customer does not wish to allow Cookies to operate in the background when ordering from the website, then the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Services via the website.**
- 1.11 “Price” means the price payable (plus any GST where applicable) for the Services as agreed between SEO WL and the Customer in accordance with clause 6 of this Contract.
- 1.12 “GST” means Goods and Services Tax as defined within the “A New Tax System (Goods and Services Tax) Act 1999” (Cth).

### 2. Acceptance

- 2.1 The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for, or accepts Services provided by SEO WL.
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 These terms and conditions may be meant to be read in conjunction with SEO WL’s Service Agreement or other special terms and conditions, and if there are any inconsistencies between the documents and these terms then the terms and conditions contained therein shall prevail.
- 2.5 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 14 of the Electronic Transactions (Queensland) Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.6 The Customer acknowledges and agrees that any expected or estimated outcomes concerning increased sales or market share or penetration achieved by the Customer derived from marketing activities undertaken by SEO WL, expressed in consultation or estimates, are speculative and in no way constitute a guarantee. In addition, where the Customer makes changes to their website, social media pages or advertising campaign information without prior discussion with SEO WL, any such changes may negatively affect any costs and results.
- 2.7 None of SEO WL’s agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of SEO WL in writing nor is SEO WL bound by any such unauthorised statements.
- 2.8 Once accepted by the Customer, SEO WL’s quotation shall be deemed to interpret correctly the Customer’s instructions, whether written or verbal. Where verbal instructions only are received from the Customer, SEO WL shall not be responsible for errors or omissions due to oversight or misinterpretation of those instructions.
- 2.9 Any advice, recommendations, information, assistance or service provided by SEO WL in relation to Services provided is given in good faith, is based on information provided to SEO WL, and SEO WL’s own knowledge, and experience. Whilst it shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Services, human error is possible under these circumstances, and SEO WL shall make all effort to offer the best solution to the Customer.
- 2.10 The Customer acknowledges and agrees that:
- (a) SEO WL does not guarantee the SNT’s performance;
  - (b) display on the SNT does not guarantee the availability of any particular goods; therefore, all orders placed through the Customer’s website as a result of any post or other communication posted shall be subject to confirmation of acceptance by the Customer;

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- (c) the ability to post communications on a SNT may be unavailable from time to time due regularly scheduled maintenance and/or upgrades by the SNT provider;
  - (d) there are inherent hazards in electronic distribution, and as such SEO WL cannot warrant against delays or errors in posts appearing on any SNT.
- 2.11 With changes in technology, changes in internet use and SNT visiting patterns, particular SNT availability/life cycle, SEO WL may suggest changes to the original proposal and recommend an alternative service. Any such suggestions and/or recommendations shall be communication to the Customer prior to implementation of any changes.
- 2.12 The Customer acknowledges that:
- (a) all SNT used in the provision of the Services are subject to the terms and condition of service of the third party provider and as such it is the Customer's responsibility to be familiar with those terms and conditions; and
  - (b) in SEO WL's use of the Customer's SNT, SEO WL is acting as the Customer's agent and any liability arising from the use of the SNT account/s shall be the Customer's responsibility.
- 3. Errors and Omissions**
- 3.1 The Customer acknowledges and accepts that SEO WL shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
- (a) resulting from an inadvertent mistake made by SEO WL in the formation and/or administration of this Contract; and/or
  - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by SEO WL in respect of the Services.
- 3.2 In the event such an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or wilful misconduct of SEO WL; the Customer shall not be entitled to treat this Contract as repudiated nor render it invalid.
- 4. Authorised Representatives**
- 4.1 Unless otherwise limited as per clause 4.2, the Customer agrees that should the Customer introduce any third party to SEO WL as the Customer's duly authorised representative, that once introduced that person shall have the full authority of the Customer to order any Services and/or to request any variation thereto, on the Customer's behalf (such authority to continue until all requested Services have been delivered, or the Customer otherwise notifies SEO WL in writing that said person is no longer the Customer's duly authorised representative).
- 4.2 In the event that the Customer's duly authorised representative, as per clause 4.1, is to have only limited authority to act on the Customer's behalf then the Customer must specifically and clearly advise SEO WL in writing of the parameters of the limited authority granted to their representative.
- 4.3 The Customer specifically acknowledges and accepts that they will be solely liable to SEO WL for all additional costs incurred by SEO WL (including SEO WL's profit margin) in providing any Services or variation/s thereto, requested by the Customer's duly authorised representative (subject always to the limitations imposed under clause 4.2 (if any)).
- 5. Change in Control**
- 5.1 The Customer shall give SEO WL not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, change of trustees or business practice). The Customer shall be liable for any loss incurred by SEO WL as a result of the Customer's failure to comply with this clause.
- 6. Price and Payment**
- 6.1 At SEO WL's sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by SEO WL to the Customer; or
  - (b) the Price as at the date of delivery of the Services according to SEO WL's current price list; or
  - (c) SEO WL's quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation/proposal or otherwise for a period of fifteen (15) days.
- 6.2 SEO WL reserves the right to change the Price if a variation to SEO WL's quotation/proposal is requested. Any variation from the plan of scheduled Services or scope (including, but not limited to, any variation as a result of additional Services required due to unforeseen circumstances such as limitations to accessing the SNT, internet disruptions or limited access, or as a result of any increase to SEO WL in the cost of third party services (including but not limited to overseas transactions that may increase as a consequence of variations in foreign currency rates of exchange and/or international freight and insurance charges) and personnel) will be charged for on the basis of SEO WL's quotation and will be shown as variations on the invoice or at SEO WL's hourly rate. The Customer shall be required to respond to any variation submitted by SEO WL within five (5) working days. Failure to do so will entitle SEO WL to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 6.3 SEO WL agrees that there will be no charge in the preparation of the initial quotation, which may include Customer discussions, project scoping, research, testing and business analysis, etc. However, in some instances the aforementioned services may be charged to the Customer additionally (at SEO WL's sole discretion).
- 6.4 At SEO WL's sole discretion a non-refundable deposit equivalent to one (1) month's Services may be required.
- 6.5 Time for payment for the Services being of the essence, the Price will be payable by the Customer on the date/s determined by SEO WL, which may be:
- (a) weekly or monthly in advance of the Services;
  - (b) on completion of the Services;
  - (c) by way of instalments/progress payments in accordance with SEO WL's payment schedule;
  - (d) seven (7) days following the end of the month in which a statement is delivered to the Customer's address or address for notices;
  - (e) the date specified on any invoice or other form as being the date for payment; or
  - (f) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by SEO WL.
- 6.6 Any discounts applicable to the Price shall become null and void if payment is not made by the due date stated on the invoice.

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- 6.7 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, direct debit, PayPal (a surcharge may apply per transaction), or by any other method as agreed to between the Customer and SEO WL. It shall be the Customer's responsibility to cancel direct debit facilities once this Contract or provisions of the Services expire, is cancelled or terminated.
- 6.8 The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by SEO WL nor to withhold payment of any invoice because part of that invoice is in dispute.
- 6.9 Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to SEO WL an amount equal to any GST SEO WL must pay for any supply by SEO WL under this or any other agreement for providing SEO WL's Services. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
- 7. Delivery of Services**
- 7.1 At SEO WL's sole discretion delivery of the Services shall take place when the Services are supplied to the Customer or the Customer's nominated SNT account.
- 7.2 Delivery of the Services to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.
- 7.3 SEO WL may deliver the Services by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions in these terms and conditions.
- 7.4 Any time specified by SEO WL for delivery of the Services is an estimate only and SEO WL will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. However both parties agree that they shall make every endeavour to enable the Services to be supplied at the time and place as was arranged between both parties. In the event that SEO WL is unable to supply the Services as agreed solely due to any action or inaction of the Customer then SEO WL shall be entitled to charge a reasonable fee for re-supplying the Services at a later time and date.
- 8. Risk and Limitation of Liability for Customer Data**
- 8.1 Irrespective of whether SEO WL retains ownership of any Incidental Items all risk for such items shall pass to the Customer as soon as such items are delivered to the Customer and shall remain with the Customer until such time as SEO WL may repossess the Incidental Items in accordance with clause 14.3(f). The Customer must insure all Incidental Items on or before delivery.
- 8.2 SEO WL reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Incidental Items as a result of the Customer's failure to insure in accordance with clause 8.1.
- 8.3 When quotations are based on specifications, roughs, layouts, samples or dummies or printed, typewritten or other good copy, any extra work or cost caused by any variation by the Customer of his original instructions or by the manuscript copy being, in SEO WL's opinion, poorly prepared or by the Customer's requirements being different from those originally submitted or described, then the cost of such variations may be charged to the Customer and shown as extras on the invoice.
- 8.4 Any tabulated work and/or foreign language included in the job but not contained in the manuscript originally submitted for the purpose of estimating may be charged to the Customer and shown as extras on the invoice.
- 8.5 Unless otherwise agreed, the Customer shall bear the cost of fonts, or colour proofs, or artwork, specially bought at its request for the work.
- 8.6 Where the performance of any contract with the Customer requires SEO WL to obtain services from a third party, the contract between SEO WL and the Customer shall incorporate and shall be subject to the conditions of supply of such services to SEO WL (including, but not limited to registering the Customer's business and/or set up SNT accounts where required), and the Customer shall be liable for the cost in full including SEO WL's margin of such services.
- 8.7 Whilst every care is taken by SEO WL to carry out the instructions of the Customer, it is the Customer's responsibility to undertake a final proof reading and/or revision of the proposed Services of any media communications prior to posting of the same to any SNT and/or revision of the proposed Services including Web Site design. SEO WL shall be under no liability whatever for any errors not corrected by the Customer in the final proof reading/revision.
- 8.8 SEO WL will make two (2) sets of minor changes at no extra cost within seven (7) days of the review period. Minor changes include small text changes and small adjustments to placement of items on the artwork. It does not include changes to images, colour schemes, or any navigation features. Any minor changes need to be notified to SEO WL via email.
- 8.9 Should the Customer fail to notify SEO WL in writing of any amendments within seven (7) days from the commencement of the review period, SEO WL shall deem that the original draft as being acceptable.
- 8.10 Any changes and comments as a result of proof reading/revision undertaken by the Customer shall be provided to SEO WL in one (1) complete brief and not multiple emails. Any extended revisions outside of this scope shall be charged at SEO WL's hourly rate.
- 8.11 Any change or correction to any video, photographs and/or artwork supplied by the Customer which is deemed necessary by SEO WL to ensure correctly finished work shall be invoiced as an extra.
- 8.12 The Customer shall provide SEO WL with data in the following formats:
- (a) for text, files shall be in an electronic format as standard text (.txt) or Work (.doc) on a USB, CD-ROM or via email;
  - (b) for imaged, in an electronic format as prescribed by SEO WL on a USB, CD-ROM or via email with the images of a suitable quality applicable for the use intended and without any subsequent image processing being required. SEO WL shall not be responsible for the quality of images scanned from printed materials;
  - (c) additional expenses may be charged to the Customer for any necessary action, including, but not limited to, photography and art direction, photography searches, media conversion, digital image processing or data entry services.
- 8.13 The Customer acknowledges and agrees that SEO WL shall not be held responsible or liable for:
- (a) anything related to the SNT or any other Services provided; and/or
  - (b) any supplied content breaching any Acts, legislation or regulations, unless due to the negligence of SEO WL.
- 8.14 SEO WL, its directors, agents or employees will not be liable in any way for any form of loss or damage of any nature whatsoever suffered, whether arising directly or indirectly, by the Customer or any person related to or dealing with the Customer out of, in connection with or reasonably incidental to the provision of the Services by SEO WL to the Customer.

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- 8.15 All media releases and public announcements by either party relating to these terms and conditions, or the Services (including subject matter and related documents), shall be co-ordinated with the other party and approved jointly by the party prior to release.
- 8.16 SEO WL shall not be held responsible for the use of Services as referred to in by media, once information approved by the Customer has been submitted to the media.
- 8.17 When reactive public relations is required, the Customer agrees that SEO WL can act on the Customer's behalf, if required, in line with the provision of Services under these terms and conditions, based on information previously supplied by the Customer and SEO WL's understanding of the Customer's instructions.
- 8.18 The Customer understands that by placing information on the SNT, such information may be accessible to all internet users. SEO WL does not (unless expressly requested by the Customer) limit or restrict access to such information, nor protect such information from copyright infringement or other wrongful activity. The Customer assumes full responsibility for their use of the Services, and it is the Customer's sole responsibility to evaluate the accuracy, completeness and usefulness or all opinions, advice, services, and other information, and the quality and merchantability of all Services provided by SEO WL, or on the internet generally.
- 8.19 Responses to any SNT communications shall be measured by SEO WL and may include all forms of responses (clicks, likes, comments, etc.) to and from the SNT account.
- 8.20 *Proof Reading:*
- (a) Whilst every care is taken by SEO WL to carry out the instructions of the Customer, it is the Customer's responsibility to undertake proof reading and provide feedback (where necessary) via Dropbox which provides regular, possibly daily contact. SEO WL shall be under no liability whatever for any errors not corrected by the Customer during the proof reading stages, and:
- (i) should the Customer's alterations require additional proofs this shall be invoiced as an extra;
- (ii) if, at any stage the Customer is unhappy with the direction the Services are taking, the Customer can cancel this agreement and pay SEO WL for work completed and where more than fifty percent (50%) of work has been performed or contract completed, the Customer shall be required to pay the amount of the Contract in full.
- (b) When style, type or layout is left to SEO WL's judgement and the Customer makes further alterations, this will be invoiced as an extra.

### 9. Customer's Acknowledgement and Responsibilities

- 9.1 The Customer acknowledges and understands that they are leasing SEO WL's dynamic solutions and systems with the right to license these solutions and systems indefinitely while all accounts are paid and SEO WL remains administrators of the Customer's Web Site. All content and material created by SEO WL remains the property SEO WL including, but not limited to:
- (a) source code of all images and design; and
- (b) systems and service processes unique to SEO WL; and
- (c) dynamic web site code that forms part of SEO WL's system which remains the intellectual property of SEO WL and cannot be purchased outright by the Customer; and/or
- (d) any social media platform.
- 9.2 The Customer shall be responsible for the payment of domain registration, hosting set-up and fees, advertising costs and any other third party costs for services that SEO WL manages on the Customer's behalf.
- 9.3 The Customer acknowledges that payments to third parties for general advertising, social media advertising and lead generation costs shall be the Customer's responsibility. Any budgets for such costs shall be set with in consultation between SEO WL and the Customer
- 9.4 The Customer will, in addition to any other obligations expressed in this agreement, have the following responsibilities:
- (a) provision of all content (including data, logos, designs and/or graphic and related materials) to be incorporated into the SNT communications and/or Web Site within five (5) business days of being requested by SEO WL;
- (b) provision of any other information, ideas or suggestions which are to be expressly considered by SEO WL in developing the SNT communications; and
- (c) to ensure that content supplied to SEO WL do not contain Prohibited Content, a link to any web site that contains Prohibited Content, or any viruses, trojan horses, worms, time bombs, cancel bots or any other software program or routine designed for or capable of interfering with the operation of the SNT.
- 9.5 The Customer will ensure that SEO WL is given such information and assistance as Rock social reasonably requires enabling SEO WL to prepare and post any communication to the SNT.
- 9.6 Subject to clause 9.5, the Customer shall supply access to any usernames and passwords required to remove posts and/or SNT communications for failure to comply with these terms and conditions.
- 9.7 SEO WL will not be responsible for, and accepts no liability for, any deficiency or alleged deficiency in the SNT communications which is attributable to:
- (a) incorrect information provided by the Customer, either pursuant to this clause or otherwise; or
- (b) failure by the Customer to provide relevant information, either pursuant to this clause or otherwise; or
- (c) any third-party products and/or services used by SEO WL in placing the SNT communication.

### 10. Web Site Development

- 10.1 *SEO WL's Responsibilities:*
- (a) Upon acceptance of SEO WL's quotation/proposal, and in accordance with this agreement, SEO WL will:
- (i) use its best endeavours to develop the Web Site in accordance with the Customer's instructions and specifications including development stages; and
- (ii) to the extent specified in the Customer's instructions and specifications, negotiate and procure any third-party agreements on behalf of the Customer.
- (b) The Customer acknowledges that the development of the Web Site by SEO WL is based upon current technology platforms (e.g. internet browsers, mobile, android, social media platform, etc.), and therefore SEO WL cannot guarantee that Web Site features and /or content will display correctly, and that the overall visual experience will be the same, for use by either superseded or presently undeveloped technology.
- (c) Upon SEO WL receiving payment in full, SEO WL shall provide the Customer with the last backup of the Web Site and associated data and ensure the Web Site is 'live' and visible on the internet and/or social media platform.

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- (d) SEO WL shall advise the Customer of all third party software, platforms and/or social media platform that the Customer is recommended to have in place to assist the Customer in setting up those accounts with the Customer's details and billing information.
  - (e) All software and components not developed by SEO WL retain the original licence and terms associated with that software.
- 10.2 *Customer's Responsibilities:*
- (a) The Customer will ensure that SEO WL is given such information and assistance (including access to computer systems, hosting account, disk space, create databases and applications, and other locations to complete a branding or other project) as SEO WL reasonably requires to enable SEO WL to construct and maintain the Web Site.
  - (b) When approval is sought or required from the Customer following completion of a development stage, the Customer will not delay the approval of that development stage beyond fourteen (14) days (time being of the essence) of being requested unless otherwise agreed to by SEO WL in writing. In the event of delays beyond this time frame, then SEO WL shall be entitled to charge a "holding fee" of an amount to be determined by SEO WL.
  - (c) Subject to clause 20.1, the Customer shall supply access to any computer system, usernames and passwords required to remove data and/or sites for failure to comply with these terms and conditions.
  - (d) It shall be the Customer's responsibility to ensure that any specific requirements they may have for mobile web browsers is included in the brief, as, unless otherwise specified therein, the choice of web browsers and technology used in the development of the Web Site shall be at the sole discretion of SEO WL. In the event that additional Services are requested, or required (as per clause 10.1(b)), in order to meet any specific requirements for mobile web browsers, after SEO WL has commenced work on the Web Site, shall be treated as a variation to the Price, and a strict estimation of further work required shall be submitted to the Customer for approval before proceeding with the variation work.
  - (e) SEO WL will not be responsible for, and accepts no liability for, any deficiency or alleged deficiency in the Web Site which is attributable to any third-party products and/or services used by SEO WL in creation of the Web Site and/or social medial platform.
- 10.3 *Customer's Property and Materials:*
- (a) Graphic files should be supplied in an editable, vector digital format and photographs in a high resolution digital format. If the Customer chooses to purchase stock photographs, SEO WL can suggest stock libraries.
  - (b) In the case of property and materials left with SEO WL without specific instructions, SEO WL shall be free to dispose of them at the end of twelve (12) months after their receiving them and to accept and retain the proceeds, if any, to cover their own costs in holding and handling them.
  - (c) Where materials or equipment are supplied by the Customer, SEO WL accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials or equipment.
- 10.4 *Maintenance:*
- (a) Subject to sub-clause (b), SEO WL will provide the Maintenance Services in accordance with the maintenance terms set out in SEO WL's maintenance schedule.
  - (b) The Customer will procure all necessary authorisations, licences and consents to enable SEO WL to have access to the Web Site in order to provide the Maintenance Services.
  - (c) Should the Customer during development of or after handover of the Web Site, attempt to update, edit or alter the Web Site pages, infrastructure, source files or the Web Site's architecture, time that SEO WL provides to repair pages shall be treated as additional work.
- 11. Search Engine Optimisation (SEO)**
- 11.1 Although SEO WL shall use their knowledge and experience to gain the best results possible, SEO WL gives no guarantee of the quality of visitor or the position/page rank or volume of visits to the Web Site, or warranty that the Web Site will be effective in promoting the Customer's business or result in any increase in sales of the products/services of the Customer. Periodic reporting will be sent to the Customer's nominated email address, at the sole discretion of SEO WL.
- 11.2 The Customer accepts that a SEO may change their policies and systems at any time and such, SEO WL shall not be held liable for any fluctuations, changes or removal of your listing from a SEO.
- 12. Compliance of Laws**
- 12.1 The Customer and SEO WL shall comply with the provisions of all statutes, regulations and bylaws of government, local and other public authorities in the country where the Services are being provided or as per guidelines on any SNT. Furthermore, SEO WL warrants that any Services and/or content produced are fully compliant with said statutes, regulations and bylaws and SNT requirements.
- 12.2 The Customer shall obtain (at the expense of the Customer) all licenses and/or approvals pertaining to materials to be used in the communication copy and where required, any release documentation for the use of any digital imagery which may include people.
- 13. Confidentiality**
- 13.1 Each party agrees to treat all information and ideas communicated to it by the other confidentially and agree not to divulge it to any third party, without the other party's written consent. The parties will not copy any such information supplied, and will either return it or destroy it (together with any copies thereof) on request of the other party.
- 14. Title**
- 14.1 SEO WL and the Customer agree that where it is intended that the ownership of Incidental Items is to pass to the Customer that such ownership shall not pass until:
- (a) the Customer has paid SEO WL all amounts owing for the Services; and
  - (b) the Customer has met all other obligations due by the Customer to SEO WL in respect of all contracts between SEO WL and the Customer.
- 14.2 Receipt by SEO WL of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then SEO WL's ownership or rights in respect of the Incidental Items shall continue.
- 14.3 It is further agreed that, until ownership of the Incidental Items passes to the Customer in accordance with clause 14.1:
- (a) the Customer is only a bailee of the Incidental Items and must return the Incidental Items to SEO WL immediately upon request by SEO WL;

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- (b) the Customer holds the benefit of the Customer's insurance of the Incidental Items on trust for SEO WL and must pay to SEO WL the proceeds of any insurance in the event of the Incidental Items being lost, damaged or destroyed;
- (c) the Customer must not sell, dispose, or otherwise part with possession of the Incidental Items. If the Customer sells, disposes or parts with possession of the Incidental Items then the Customer must hold the proceeds of sale of the Incidental Items on trust for SEO WL and must pay or deliver the proceeds to SEO WL on demand.
- (d) the Customer should not convert or process the Incidental Items or intermix them with other goods, but if the Customer does so then the Customer holds the resulting product on trust for the benefit of SEO WL and must dispose of or return the resulting product to SEO WL as SEO WL so directs.
- (e) the Customer shall not charge or grant an encumbrance over the Incidental Items nor grant nor otherwise give away any interest in the Incidental Items while they remain the property of SEO WL;
- (f) the Customer irrevocably authorises SEO WL to enter any premises where SEO WL believes the Incidental Items are kept and recover possession of the Incidental Items.

### 15. Personal Property Securities Act 2009 ("PPSA")

- 15.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 15.2 Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in:
  - (a) all Incidental Items previously supplied by SEO WL to the Customer;
  - (b) all Incidental Items will be supplied in the future by SEO WL to the Customer; and
  - (c) all the Customer's present and after acquired property being a charge, including anything in respect of which the Customer has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Customer to SEO WL for Services – that have previously been provided and that will be provided in the future by SEO WL to the Customer.
- 15.3 The Customer undertakes to:
  - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which SEO WL may reasonably require to;
    - (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register;
    - (ii) register any other document required to be registered by the PPSA; or
    - (iii) correct a defect in a statement referred to in clause 15.3(a)(i) or 15.3(a)(ii);
  - (b) indemnify, and upon demand reimburse, SEO WL for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Incidental Items charged thereby;
  - (c) not register a financing change statement in respect of a security interest without the prior written consent of SEO WL;
  - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Incidental Items in favour of a third party without the prior written consent of SEO WL.
- 15.4 SEO WL and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 15.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 15.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 15.7 Unless otherwise agreed to in writing by SEO WL, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 15.8 The Customer must unconditionally ratify any actions taken by SEO WL under clauses 15.3 to 15.5.
- 15.9 Subject to any express provisions to the contrary (including those contained in this clause 15) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

### 16. Security and Charge

- 16.1 In consideration of SEO WL agreeing to supply Services, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Customer either now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 16.2 The Customer indemnifies SEO WL from and against all SEO WL's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising SEO WL's rights under this clause.
- 16.3 The Customer irrevocably appoints SEO WL and each director of SEO WL as the Customer's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 16 including, but not limited to, signing any document on the Customer's behalf.

### 17. Defects, Warranties and the Competition and Consumer Act 2010 (CCA)

- 17.1 The Customer must inspect SEO WL's Services immediately on completion of the Services and must notify SEO WL in writing within seven (7) days of any evident defect in the Services or Incidental Items provided (including SEO WL's workmanship) or of any other failure by SEO WL to comply with the description of, or quote for, the Services which SEO WL was to supply. The Customer must notify any other alleged defect in SEO WL's Services or Incidental Items as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow SEO WL to review the Services or Incidental Items that were provided.
- 17.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).
- 17.3 SEO WL acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

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- 17.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, SEO WL makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. SEO WL's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 17.5 If the Customer is a consumer within the meaning of the CCA, SEO WL's liability is limited to the extent permitted by section 64A of Schedule 2.
- 17.6 If SEO WL is required to rectify, re-supply, or pay the cost of re-supplying the Services under this clause or the CCA, but is unable to do so, then SEO WL may refund any money the Customer has paid for the Services but only to the extent that such refund shall take into account the value of Services and Incidental Items which have been provided to the Customer which were not defective.
- 17.7 If the Customer is not a consumer within the meaning of the CCA, SEO WL's liability for any defective Services or Incidental Items is:
- (a) limited to the value of any express warranty or warranty card provided to the Customer by SEO WL at SEO WL's sole discretion;
  - (b) otherwise negated absolutely.
- 17.8 Notwithstanding clauses 17.1 to 17.7 but subject to the CCA, SEO WL shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
- (a) the Customer failing to properly maintain or store any Incidental Items;
  - (b) the Customer using the Incidental Items for any purpose other than that for which they were designed;
  - (c) the Customer continuing to use any Incidental Items after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
  - (d) interference with the Services by the Customer or any third party without SEO WL's prior approval;
  - (e) the Customer failing to follow any instructions or guidelines provided by SEO WL;
  - (f) fair wear and tear, any accident, or act of God.

### 18. Intellectual Property

- 18.1 Where SEO WL has designed, drawn or developed Services (including the Web Site) for the Customer, SEO WL retains full intellectual property ownership of SEO WL's proprietary software, design, code, materials, routines and Services, including the copyright in any designs and drawings and documents or discovered during the provision of the Services, and SEO WL hereby grants to the Customer an irrevocable, non-exclusive and non-transferable worldwide licence to use SEO WL's materials, routines and Services solely in relation to the operation of the Customer's own presentation and functioning of the Web Site, conditional upon the Customer fulfilling their obligations under this Contract (including, but not limited to, the full payment of the Price). Furthermore, the Customer shall not have any right to use open source software or SEO WL's intellectual property for any other purpose.
- 18.2 SEO WL shall retain property ownership of:
- (a) any designs not approved by the Customer, and later offer the Customer the right to purchase a licence to use such non-approved designs; and
  - (b) all photography and video audio filmed and/or created by and for SEO WL.
- 18.3 The Customer warrants that all designs, specifications or instructions given to SEO WL will not cause SEO WL to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify SEO WL against any action taken by a third party against SEO WL in respect of any such infringement.
- 18.4 The Customer hereby authorises SEO WL to utilise images of the Services created by SEO WL in advertising, marketing, or competition material by SEO WL including, but not limited to:
- (a) the Customer permitting SEO WL to place a small credit on printed material, exhibition displays, advertisement and/or link to SEO WL's own web site on the Customer's Web Site, which shall usually be in the form of a small logo or line of text placed towards the bottom of the page;
  - (b) allowing SEO WL to place web sites and other designs, along with a link to the Customer's Web Site on SEO WL's own web site for demonstration purposes and to use any designs in SEO WL's own publicity.

### 19. Default and Consequences of Default for Breach of Contract

- 19.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at SEO WL's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 19.2 If the Customer owes SEO WL any money, the Customer shall indemnify SEO WL from and against all costs and disbursements incurred by SEO WL regarding, legal costs on a solicitor and own client basis, internal administration fees, SEO WL's contract fees owing for breach of these terms and conditions', including but not limited, to contract default fees and/or recovery costs (if applicable), as well as bank dishonour fees.
- 19.3 Where the Customer's direct debit is reversed from the Customer's nominated financial institute, SEO WL shall contact the Customer to re-try the debit within seven (7) days of the original transaction due date along with any reversal fees that may apply in addition to the outstanding amount.
- 19.4 Further to any other rights or remedies SEO WL may have under this Contract, if a Customer has made payment to SEO WL, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by SEO WL under this clause 19 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement.
- 19.5 Without prejudice to SEO WL's other remedies at law SEO WL shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to SEO WL shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to SEO WL becomes overdue, or in SEO WL's opinion the Customer will be unable to make a payment when it falls due;
  - (b) the Customer has exceeded any applicable credit limit provided by SEO WL;
  - (c) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or

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(d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

### 20. Cancellation

- 20.1 Without prejudice to any other remedies SEO WL may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions SEO WL may suspend or terminate the supply of Services to the Customer. SEO WL will not be liable to the Customer for any loss or damage the Customer suffers because SEO WL has exercised its rights under this clause.
- 20.2 SEO WL may cancel any contract to which these terms and conditions apply or cancel delivery of Services at any time before the Services are commenced by giving written notice to the Customer. On giving such notice SEO WL shall repay to the Customer any money paid by the Customer for the Services. SEO WL shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 20.3 Where the Customer fails to participate or respond to SEO WL's requests to commence, continue or finalise the delivery of the Services for a period of greater than ten (10) business days without an explanation, the Services shall be deemed to be abandoned and thereby cancelled. All work completed up until the time of abandonment shall become immediately due and payable by the Customer, along with any weekly service fee that may be due.
- 20.4 In the event that the Customer cancels delivery of the Services the Customer shall be liable for any and all loss incurred (whether direct or indirect) by SEO WL as a direct result of the cancellation (including, but not limited to, any loss of profits). The Customer is required to give at least thirty (30) days' written notice of any intention to cancel.

### 21. Privacy Policy

- 21.1 All emails, documents, images or other recorded information held or used by SEO WL is Personal Information, as defined and referred to in clause 21.3, and therefore considered Confidential Information. SEO WL acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation "GDPR") (collectively, "EU Data Privacy Laws"). SEO WL acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Clients Personal Information, held by SEO WL that may result in serious harm to the Customer, SEO WL will notify the Customer in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Customer by written consent, unless subject to an operation of law.
- 21.2 Notwithstanding clause 21.1, privacy limitations will extend to SEO WL in respect of Cookies where transactions for purchases/orders transpire directly from SEO WL's website. SEO WL agrees to display reference to such Cookies and/or similar tracking technologies, such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Customer's:
- (a) IP address, browser, email client type and other similar details;
  - (b) tracking website usage and traffic; and
  - (c) reports are available to SEO WL when SEO WL sends an email to the Customer, so SEO WL may collect and review that information ("collectively Personal Information")
- In order to enable / disable the collection of Personal Information by way of Cookies, the Customer shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via SEO WL's website.
- 21.3 The Customer agrees for SEO WL to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Customer in relation to credit provided by SEO WL.
- 21.4 The Customer agrees that SEO WL may exchange information about the Customer with those credit providers and with related body corporates for the following purposes:
- (a) to assess an application by the Customer; and/or
  - (b) to notify other credit providers of a default by the Customer; and/or
  - (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or
  - (d) to assess the creditworthiness of the Customer including the Customer's repayment history in the preceding two (2) years.
- 21.5 The Customer consents to SEO WL being given a consumer credit report to collect overdue payment on commercial credit.
- 21.6 The Customer agrees that personal credit information provided may be used and retained by SEO WL for the following purposes (and for other agreed purposes or required by):
- (a) the provision of Services; and/or
  - (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Services; and/or
  - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or
  - (d) enabling the collection of amounts outstanding in relation to the Services.
- 21.7 SEO WL may give information about the Customer to a CRB for the following purposes:
- (a) to obtain a consumer credit report;
  - (b) allow the CRB to create or maintain a credit information file about the Customer including credit history.
- 21.8 The information given to the CRB may include:
- (a) Personal Information as outlined in 21.3 above;
  - (b) name of the credit provider and that SEO WL is a current credit provider to the Customer;
  - (c) whether the credit provider is a licensee;
  - (d) type of consumer credit;
  - (e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);

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- (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and SEO WL has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
  - (g) information that, in the opinion of SEO WL, the Customer has committed a serious credit infringement;
  - (h) advice that the amount of the Customer's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 21.9 The Customer shall have the right to request (by e-mail) from SEO WL:
- (a) a copy of the Personal Information about the Customer retained by SEO WL and the right to request that SEO WL correct any incorrect Personal Information; and
  - (b) that SEO WL does not disclose any Personal Information about the Customer for the purpose of direct marketing.
- 21.10 SEO WL will destroy Personal Information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with the law.
- 21.11 The Customer can make a privacy complaint by contacting SEO WL via e-mail. SEO WL will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au).
- 22. Service of Notices**
- 22.1 Any written notice given under this Contract shall be deemed to have been given and received:
- (a) by handing the notice to the other party, in person;
  - (b) by leaving it at the address of the other party as stated in this Contract;
  - (c) by sending it by registered post to the address of the other party as stated in this Contract;
  - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract (if any), on receipt of confirmation of the transmission;
  - (e) if sent by email to the other party's last known email address.
- 22.2 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 23. Trusts**
- 23.1 If the Customer at any time upon or subsequent to entering in to the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not SEO WL may have notice of the Trust, the Customer covenants with SEO WL as follows:
- (a) the Contract extends to all rights of indemnity which the Customer now or subsequently may have against the Trust and the trust fund;
  - (b) the Customer has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Customer against the Trust or the trust fund. The Customer will not release the right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity;
  - (c) the Customer will not without consent in writing of SEO WL (SEO WL will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
    - (i) the removal, replacement or retirement of the Customer as trustee of the Trust;
    - (ii) any alteration to or variation of the terms of the Trust;
    - (iii) any advancement or distribution of capital of the Trust; or
    - (iv) any resettlement of the trust property.
- 24. General**
- 24.1 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect that party's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 24.2 These terms and conditions and any contract to which they apply shall be governed by the laws of Queensland, the State in which SEO WL has its principal place of business, and are subject to the jurisdiction of the Southport Courts in Queensland.
- 24.3 Subject to clause 17, SEO WL shall be under no liability whatsoever to the Customer for any indirect and/or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by SEO WL of these terms and conditions (alternatively SEO WL's liability shall be limited to damages which under no circumstances shall exceed the Price of the Services).
- 24.4 SEO WL may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Customer's consent.
- 24.5 The Customer cannot licence or assign without the written approval of SEO WL.
- 24.6 SEO WL may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of SEO WL's sub-contractors without the authority of SEO WL.
- 24.7 The Customer agrees that SEO WL may amend their general terms and conditions for subsequent future contracts with the Customer by disclosing such to the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for SEO WL to provide Services to the Customer.
- 24.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 24.9 Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.