

1. Definitions

- 1.1 “CMG” means Compton Media Group Pty Ltd T/A Hills to Hawkesbury Living, its successors and assigns or any person acting on behalf of and with the authority of Compton Media Group Pty Ltd T/A Hills to Hawkesbury Living.
- 1.2 “Customer” means the person/s or any person acting on behalf of and with the authority of the Customer requesting CMG 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 part of a Trust, shall be bound in their capacity as a trustee; and
 - (c) includes the Customer’s executors, administrators, successors and permitted assigns.
- 1.3 “Goods” means all Goods or Services supplied by CMG to the Customer at the Customer’s request from time to time, including any goods, advertisements, publications, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by CMG in the course of it conducting, or providing to the Customer, the Services (where the context so permits the terms ‘Goods’ or ‘Services’ shall be interchangeable for the other).
- 1.4 “Copy” shall mean any manuscript, advertisement, general copy, graphics and other digital display material and/or content supplied by the Customer for the provision of the Services.
- 1.5 “Price” means the price payable (plus any GST where applicable) for the Services as agreed between CMG and the Customer in accordance with clause 5 of this contract.
- 1.6 “GST” means Goods and Services Tax (GST) as defined within the “A New Tax System (Goods and Services Tax) Act 1999” (Cth).
- 1.7 “Prohibited Content” means any content on a Web Site that:
- (a) is, or could reasonably be considered to be, in breach of the Broadcast Services Amendment (Online Service) Act 1999 (Cth); 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.

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 CMG.
- 2.2 These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and CMG.
- 2.3 Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.
- 2.4 The Customer acknowledges that:
- (a) Services provided by CMG are subject to availability and only on the terms and conditions of trade herein to the exclusion of anything to the contrary in the terms of the Customer’s order notwithstanding that any such order is placed on terms that purport to override these terms and conditions of trade. CMG shall be entitled to change any distribution date at any time without notice;
 - (b) any advice, recommendation, information, assistance or service provided by CMG in relation to Services supplied is given in good faith, is based on CMG’s own knowledge and experience and shall be accepted without liability on the part of CMG and 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;
 - (c) where colour matching is required, the Customer agrees to supply information and samples regarding the correct colour;
 - (d) CMG reserves the right not to undertake any Services, refuse to accept any Copy, withdraw any advertisement or publication at any time for any reason (including where such, in CMG’s opinion is or may be unlawful, offensive, contains Prohibited Content, does not comply with clause 11.1, or is otherwise inappropriate), and CMG shall not be liable to the Customer for any such action;
 - (e) CMG will endeavour to place any advertisement in the position requested by the Customer; however, they cannot always do so and shall not be liable to the Customer where any advertisement does not appear in the place requested.

3. Errors and Omissions

- 3.1 The Customer acknowledges and accepts that CMG 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 CMG 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 CMG 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 wilful misconduct of CMG; the Customer shall not be entitled to treat this contract as repudiated nor render it invalid.

4. Change in Control

- 4.1 The Customer shall give CMG 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 in trustees, or business practice). The Customer shall be liable for any loss incurred by CMG as a result of the Customer’s failure to comply with this clause.

5. Price and Payment

- 5.1 At CMG’s sole discretion the Price shall be either:
- (a) as indicated on any invoice provided by CMG to the Customer; or
 - (b) the Price as at the date of delivery of the Goods according to CMG’s current price list; or
 - (c) CMG’s quoted price (subject to clause 6) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days. Quotations are only for Services according to original specifications. If through the Customer’s error, or omission, the Services have to be redone or alterations or additions to specifications are required, then CMG may make an additional charge. The Customer

acknowledges and agrees that the Price is quoted on the condition that all sign work is ordered, manufactured and delivered/installed at the same time.

- 5.2 At CMG's sole discretion, a non-refundable deposit may be required.
- 5.3 Time for payment for the Services being of the essence, the Price will be payable by the Customer on the date/s determined by CMG, which may be:
- (a) on provision of the Services;
 - (b) by way of instalments in accordance with CMG's payment schedule;
 - (c) the date specified on any invoice or other form as being the date for payment; or
 - (d) failing any notice to the contrary, the date which is thirty (30) days following the date of any invoice given to the Customer by CMG.
- 5.4 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed to between the Customer and CMG.
- 5.5 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 CMG nor to withhold payment of any invoice because part of that invoice is in dispute.
- 5.6 Unless otherwise stated the Price does not include GST. In addition to the Price the Customer must pay to CMG an amount equal to any GST CMG must pay for any provision of Services by CMG under this or any other agreement. 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.

6. Variations

- 6.1 CMG reserves the right to change the Price if a variation to CMG's quotation is requested, including:
- (a) where 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 copy being, in CMG's opinion, poorly prepared, or by the Customer's requirements being different from those originally submitted or described;
 - (b) experimental work, preliminary sketches and designs and origination costs produced at the Customer's request, which will be charged for, even if the job does not proceed further;
 - (c) any tabulated work and/or foreign language included in the job but not contained in the copy originally submitted;
 - (d) any fonts, or colour proofs, or artwork, specially bought at the Customer's request for the Services;
 - (e) when style, type or layout is left to CMG's judgement, and the Customer makes further alterations to the copy;
 - (f) any change or correction to any film, bromides, artwork and/or any printing surface supplied by the Customer, and deemed necessary by CMG to ensure correctly finished work;
 - (g) any variation as a result of fluctuations in currency exchange rates or increases to CMG in the cost of taxes, levies, materials and labour;
 - (h) where the performance of any contract with the Customer requires CMG to obtain products and/or services from a third party, the contract between CMG and the Customer shall incorporate, and shall be subject to, the conditions of supply of such products and/or services to CMG, and the Customer shall be liable for the cost in full including CMG's margin of such products and/or services;
 - (i) any packing of Goods, other than CMG's normal commercially acceptable packing, requested by the Customer will be charged as an extra, unless expressly stated in writing on CMG's accepted quotation.
- 6.2 Variations will be charged for on the basis of CMG's quotation, and will be detailed in writing, and shown as variations on CMG's invoice. The Customer shall be required to respond to any variation submitted by CMG within ten (10) working days. Failure to do so will entitle CMG 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.

7. Samples and Proof Reading

- 7.1 CMG is under no obligation to provide samples of the Goods ordered other than by virtual (computerised) sample. CMG will take no responsibility for any variation between virtual samples and the supplied Goods. Should a physical sample be required, this will be provided on request by the Customer and will be charged for as an extra in accordance with clause 6.
- 7.2 It is the Customer's responsibility to undertake a final proof reading of the Goods, which will be sent to the Customer and will be deemed accepted if no response is received by the Customer within twenty-four (24) hours of CMG's submission thereof. CMG shall be under no liability whatever for any errors not corrected by the Customer in the final proof reading, and should the Customer's alterations require additional proofs this shall be invoiced as an extra in accordance with clause 6.
- 7.3 If CMG fails to provide a proof and the Copy substantially conforms to the Copy provided by the Customer, then the Customer is liable to pay for the full cost of the Good/s and Services.

8. Provision of the Services and Delivery of the Goods

- 8.1 Any time specified by CMG for provision of the Services is an estimate only and CMG will not be liable for any loss or damage incurred by the Customer as a result of delayed provision of the Services of delivery of the Goods being late. However both parties agree that they shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that CMG is unable to provide the Services as agreed solely due to any action or inaction of the Customer then CMG shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date.
- 8.2 Delivery of the Goods is taken to occur at the time that:
- (a) the Customer or the Customer's nominated carrier takes possession of the Goods at CMG's address; or
 - (b) CMG (or CMG's nominated carrier) delivers the Goods to the Customer's nominated address, even if the Customer is not present at the address.
- 8.3 At CMG's sole discretion, the cost of delivering the Goods is included in the Price.
- 8.4 CMG may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.
- 8.5 Whilst every endeavour will be made to deliver the correct quantity ordered, the Customer acknowledges that the difficulty of producing exact quantities, estimates and/or orders are conditional upon a margin of ten percent (10%) being allowed for shortages which will be charged for, or deducted from, the amount owing by the Customer in relation to the Goods at the relevant run-on rate.

8.6 The Customer will be deemed to have accepted the Goods on delivery or, if the Customer fails to take possession of the Goods, within fourteen (14) days of the completion date as notified by email.

9. Risk

9.1 Irrespective of whether CMG retains ownership of any Goods, 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 CMG may repossess the Goods in accordance with clause 12.3(f). The Customer must insure all Goods on or before delivery.

9.2 CMG reserves its right to seek compensation or damages for any damage, destruction or loss suffered in relation to the Goods as a result of the Customer's failure to insure in accordance with clause 9.1.

10. Customer's Property and Materials Supplied by the Customer

10.1 Where the Customer supplies materials to CMG for the provision of the Services:

- (a) these materials will be held by CMG at the Customer's risk;
- (b) adequate quantities shall be supplied to cover spoilage. Sheets and other materials shall not be counted or checked when received, unless requested by the Customer in writing, and this shall be charged as an extra in accordance with clause 6.1; and
- (c) CMG accepts no responsibility for imperfect work caused by defects in or unsuitability of such materials.

10.2 In the case of property, Copy and/or materials left with CMG without specific instructions, CMG shall be free to dispose of them at the end of thirty (30) days after receiving them, and to accept and retain the proceeds, if any, to cover CMG's own costs in holding and handling them.

11. Copy

11.1 The Customer acknowledges that all Copy supplied to CMG is subject to the approval of CMG and may, regardless of prior approval, be rejected and removed by CMG.

11.2 The Customer warrants that all Copy supplied to CMG to be used for the provision of the Services shall:

- (a) be true and correct in every particular; and
- (b) does not contain Prohibited Content; and
- (c) be non-political and non-religious by nature, and suitable for viewer of all ages; and
- (d) not be, nor contain, anything that is defamatory of any person or is indecent or obscene; and
- (e) complies with all laws, regulations, codes of practice, guidelines and any standards applicable to the advertising industry and as determined by any relevant regulatory agency or industry self-regulatory body (including, but not limited to, the Fair Trading Act 2012 and the Advertising Codes of Practice of the Advertising Standards Authority Inc.); and
- (f) does not infringe copyright, trademark or any other legal rights of another person and/or entity (including the name and image of any person without their consent, etc.); and
- (g) does not contain anything which may give rise to any cause of action by a third against CMG (including, but not limited to, material that may cause damage or injury to any person and/or entity); and
- (h) is not false or misleading and is true in substance and in fact; and
- (i) not contain nor constitute a statement that is misleading or deceptive or likely to deceive or to mislead or which is otherwise in breach of a provision of the Competition and Consumer Act 2010 (Cth) or any other Commonwealth legislation of the applicable State;
- (j) be in the form, and delivered up to CMG by the date, specified thereby. If the Customer fails to adhere to this sub-clause, CMG shall not be liable to the Customer in the event CMG is unable to publish any advertisement/produce the Goods;

11.3 The Customer shall indemnify, and keep indemnified, CMG at all times against all actions, proceedings, claims, demands, liabilities, either express or implied, and all costs, losses, losses of profit, damages and expenses whatsoever which may be taken against CMG, or incurred or become payable by CMG, resulting or arising from the Customer being in breach of clause 11.1

11.4 Imprints or any legal obligations required to appear on any printed material are the responsibility of the Customer. CMG reserves the right to place its imprint on all printed material unless specifically requested otherwise.

12. Title

12.1 CMG and the Customer agree that where it is intended that the ownership of Goods is to pass to the Customer that such ownership shall not pass until:

- (a) the Customer has paid CMG all amounts owing for the Services; and
- (b) the Customer has met all other obligations due by the Customer to CMG in respect of all contracts between CMG and the Customer.

12.2 Receipt by CMG 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 CMG's ownership or rights in respect of the Goods shall continue.

12.3 It is further agreed that:

- (a) the Customer is only a bailee of the Goods and must return the Goods to CMG immediately upon request by CMG;
- (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for CMG and must pay to CMG the proceeds of any insurance in the event of the Goods being lost, damaged or destroyed;
- (c) the Customer must not sell, dispose, or otherwise part with possession of the Goods. If the Customer sells, disposes or parts with possession of the Goods then the Customer must hold the proceeds of sale of the Goods on trust for CMG and must pay or deliver the proceeds to CMG on demand.
- (d) the Customer should not convert or process the Goods 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 CMG and must dispose of or return the resulting product to CMG as CMG so directs.
- (e) the Customer shall not charge or grant an encumbrance over the Goods nor grant nor otherwise give away any interest in the Goods while they remain the property of CMG;
- (f) the Customer irrevocably authorises CMG to enter any premises where CMG believes the Goods are kept and recover possession of the Goods.

13. Personal Property Securities Act 2009 (“PPSA”)

- 13.1 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 13.2 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 all Goods and/or collateral (account) – being a monetary obligation of the Customer to CMG for Services – that have previously been supplied and that will be supplied in the future by CMG to the Customer.
- 13.3 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 CMG 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 13.3(a)(i) or 13.3(a)(ii);
 - (b) indemnify, and upon demand reimburse, CMG 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 registration made thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of CMG;
 - (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of CMG.
- 13.4 CMG 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.
- 13.5 The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 13.6 The Customer waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 13.7 Unless otherwise agreed to in writing by CMG, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 13.8 The Customer must unconditionally ratify any actions taken by CMG under clauses 13.3 to 13.5.
- 13.9 Subject to any express provisions to the contrary (including those contained in this clause 13) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.

14. Security and Charge

- 14.1 In consideration of CMG agreeing to provide the 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).
- 14.2 The Customer indemnifies CMG from and against all CMG’s costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising CMG’s rights under this clause.
- 14.3 The Customer irrevocably appoints CMG and each director of CMG as the Customer’s true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer’s behalf.

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

- 15.1 The Customer must inspect CMG’s Services on completion of the Services and must within seven (7) days notify CMG in writing of any evident defect in the Services or Goods provided (including CMG’s workmanship) or of any other failure by CMG to comply with the description of, or quote for, the Services which CMG was to provide. Upon such notification the Customer must allow CMG to review the Services or Goods that were provided.
- 15.2 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**).
- 15.3 CMG acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 15.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, CMG makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. CMG’s liability in respect of these warranties is limited to the fullest extent permitted by law.
- 15.5 If the Customer is a consumer within the meaning of the CCA, CMG’s liability is limited to the extent permitted by section 64A of Schedule 2.
- 15.6 If CMG is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then CMG 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 Goods which have been provided to the Customer which were not defective.
- 15.7 If the Customer is not a consumer within the meaning of the CCA, CMG’s liability for any defective Services or Goods is:
- (a) limited to the value of any express warranty or warranty card provided to the Customer by CMG at CMG’s sole discretion;
 - (b) otherwise negated absolutely.
- 15.8 Notwithstanding clauses 15.1 to 15.7 but subject to the CCA, CMG 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 Goods;
 - (b) the Customer using the Goods for any purpose other than that for which they were designed;
 - (c) the Customer continuing to use any Incidental Item 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 CMG’s prior approval;
 - (e) the Customer failing to follow any instructions or guidelines provided by CMG;
 - (f) fair wear and tear (including the fading of inks), any accident, or act of God.

16. Intellectual Property

- 16.1 Where CMG has designed, drawn or developed Goods for the Customer, then the copyright in any Goods shall remain the property of CMG, and the Customer undertakes to acknowledge CMG's design or drawings in the event that images of the Goods are utilised in advertising or marketing material by the Customer. Under no circumstances may such designs, drawings and documents be used without the express written approval of CMG.
- 16.2 Drawings, sketches, painting, photographs, designs or typesetting furnished by CMG, dummies, models or the like devices made or procured and manipulated by CMG, and negatives, positives, blocks, engravings, stencils, dies, plates or cylinders made from CMG's original design, or from a design furnished by the Customer, remain the exclusive property of CMG, unless otherwise agreed upon in writing.
- 16.3 Sketches and dummies submitted by CMG on a speculative basis shall remain the property of CMG. They shall not be used for any purpose other than that nominated by CMG and no ideas obtained there from may be used without the consent of CMG, and CMG shall be entitled to compensation from the Customer for any unauthorised use of such sketches and dummies.
- 16.4 The Customer warrants that all designs, specifications or instructions given to CMG will not cause CMG to infringe any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify CMG against any action taken by a third party against CMG in respect of any such infringement.
- 16.5 The Customer agrees that CMG may (at no cost) use for the purposes of marketing or entry into any competition, any Goods which CMG has created for the Customer and/or any Services provided to the Customer.

17. Default and Consequences of Default

- 17.1 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 CMG's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 17.2 If the Customer owes CMG any money the Customer shall indemnify CMG from and against all costs and disbursements incurred by CMG in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, CMG's contract default fee, and bank dishonour fees).
- 17.3 Further to any other rights or remedies CMG may have under this contract, if a Customer has made payment to CMG, 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 CMG under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this contract.
- 17.4 Without prejudice to CMG's other remedies at law CMG shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to CMG shall, whether or not due for payment, become immediately payable if:
- (a) any money payable to CMG becomes overdue, or in CMG'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 CMG;
 - (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
 - (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Customer or any asset of the Customer.

18. Cancellation

- 18.1 Without prejudice to any other remedies CMG may have, if at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions CMG may suspend or terminate the provision of Services to the Customer. CMG will not be liable to the Customer for any loss or damage the Customer suffers because CMG has exercised its rights under this clause.
- 18.2 CMG may cancel any contract to which these terms and conditions apply or cancel provision of the Services at any time before the Services are commenced by giving written notice to the Customer. On giving such notice CMG shall repay to the Customer any money paid by the Customer for the Services. CMG shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 18.3 Subject to clause 18.4, in the event that the Customer cancels the Services the Customer shall be liable for any and all loss incurred (whether direct or indirect) by CMG as a direct result of the cancellation (including, but not limited to, any loss of profits). In the event that an order is cancelled or suspended by the Customer, then CMG may immediately require the Customer to pay for Services provided up to the date of cancellation or suspension.
- 18.4 For publication Services, the Customer may cancel the Services without penalty provided that the Customer's written request for cancellation is received fifteen (15) days prior to the issue date. Cancellation with less than this notice shall not be accepted and the Customer shall still be liable to pay the Price as per the original order and invoice.

19. Confidentiality

- 19.1 Each party agrees to treat all information (including this agreement) and ideas communicated to them by the other confidentially, and further agrees 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.

20. Privacy Act 1988

- 20.1 The Customer agrees for CMG to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by CMG.
- 20.2 The Customer agrees that CMG 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 years.
- 20.3 The Customer consents to CMG being given a consumer credit report to collect overdue payment on commercial credit.
- 20.4 The Customer agrees that personal credit information provided may be used and retained by CMG 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.
- 20.5 CMG 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.
- 20.6 The information given to the CRB may include:
 - (a) personal information as outlined in 20.1 above;
 - (b) name of the credit provider and that CMG 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);
 - (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 CMG has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
 - (g) information that, in the opinion of CMG, 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).
- 20.7 The Customer shall have the right to request (by e-mail) from CMG:
 - (a) a copy of the information about the Customer retained by CMG and the right to request that CMG correct any incorrect information; and
 - (b) that CMG does not disclose any personal information about the Customer for the purpose of direct marketing.
- 20.8 CMG 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 agreement or is required to be maintained and/or stored in accordance with the law.
- 20.9 The Customer can make a privacy complaint by contacting CMG via e-mail. CMG 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.

21. Limitation of Liability and Indemnity

- 21.1 Subject to clause 15, CMG accepts no liability whatsoever for any defect, error or omission in any Goods and/or Copy and will not be responsible for any costs or losses incurred by the Customer by reason of any error in the Goods and/or Copy (including, but not limited to, offering any refund or credit).
- 21.2 The Customer agrees to indemnify CMG, its employees, agents and affiliates, and their employees and agents against any action, claim, loss or expense arising from the production of Goods and/or publication of Copy, cancellation of, or failure to produce the Goods and/or publish any Copy, and all costs, losses and expenses suffered or incurred by CMG, its employees, agents and affiliates, and their employees and agents as a result of any breach by the Customer of these conditions or any other agreement between the Customer and CMG.
- 21.3 The Customer acknowledges that, due to the nature of digital display, technical difficulties may arise which could prevent the provision of the Services; and the Customer, therefore, agrees to indemnify CMG against any costs or losses incurred by the Customer as a result of this.

22. Trusts

- 22.1 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 CMG may have notice of the Trust, the Customer covenants with CMG 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 CMG (CMG 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.

23. General

- 23.1 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.

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- 23.2 These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales, the state in which CMG has its principal place of business, and are subject to the jurisdiction of the Hornsby court in that state.
- 23.3 CMG may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent.
- 23.4 The Customer cannot licence or assign without the written approval of CMG.
- 23.5 CMG 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 CMG's sub-contractors without the authority of CMG.
- 23.6 The Customer agrees that CMG may amend these terms and conditions by notifying 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 CMG to provide Goods to the Customer.
- 23.7 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.
- 23.8 Both parties warrant that they have the power to enter into this contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this contract creates binding and valid legal obligations on them.