

TERMS AND CONDITIONS AGREEMENT

Deeper Look ABN 29 231 080 503 trading as Deeper Look (hereinafter called "Deeper Look")

RECITALS

- A. The Client wishes to engage Deeper Look to provide the services detailed in this Agreement on the terms and conditions contained in this Agreement
- B. The Client has agreed to engage Deeper Look to perform one or more of the services detailed in an Order Form for the provision of services and acknowledges and agrees that the Order Form is to be read in conjunction with the terms and conditions of this Agreement (called "Agreement") and further acknowledges that the Agreement and Order Form form part of the contract of engagement between Deeper Look and The Client.

Deeper Look and The Client agree to the following terms and conditions:-

INTERPRETATION

In this Agreement, unless the contrary intention appears:

- (a) Headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) A reference to a right or obligation of any two or more persons confers that right or imposes that obligation, as the case may be, jointly and severally; and
- (c) A reference to a party includes executors, administrators, permitted assigns and successors of that party.

1. DEFINITIONS AND INTERPRETATION

1.1. Definitions

In this Agreement, unless the context or subject matter otherwise require:

"The Client" is the party referred to in the Order Form to be read in conjunction with this, or who has otherwise engaged the services of Deeper Look.

'Agreement' means this Agreement, (including the recitals, schedules, appendices and exhibits to it).

"Order Form" is an order for services, completed by The Client, and is to be read in conjunction with this Agreement.

"Standard Hourly Rate" is the hourly rate advised to The Client by Deeper Look.

‘Confidential Information’ means all information disclosed (whether orally, in writing or in any other form) by one party (the **‘Disclosing Party’**) to the other party (the **‘Recipient’**) in connection with this Agreement which is identified as being confidential and all copies, notes and records and all related information based on or arising out of any such disclosure which is not:

1. In the public domain (other than as a result of a breach of this Agreement); or
2. Independently developed or known by the Recipient;

but this does not include Personal Information.

‘Deliverables’ means all products and services supplied or to be supplied under this Agreement.

‘Fee’ means the Deeper Look fee set out in the Order Form.

‘Intellectual Property’ or **‘IPR’** means all intellectual property rights in Australia of the parties hereto, including:

- (a) Patents; copyright, rights in circuit layouts, registered designs, trade or service marks, trade, business or company names, indication of source or appellation of origin, and any right to have confidential information kept confidential;
- (b) Any application or right to apply for registration of, or assert or waive, any of the rights referred to in paragraph (a);
- (c) Trade secrets, ideas, concepts, materials, know-how and techniques; and
- (d) Moral rights.

‘Force Majeure Event’ means an act of God, national emergency, insurrection, riot war or industrial action.

‘Moral Rights’ means all present and future rights of integrity of authorship, rights of attribution of authorship, rights not to have authorship falsely attributed and rights of a similar nature conferred by statute anywhere in the world.

2. ACCOUNTS

- 2.1. Accounts will be issued on such basis as may be agreed between Deeper Look and The Client provided however that Deeper Look reserves the right in its absolute discretion to vary the basis of issuing accounts (e.g. monthly, quarterly, or such other period/s as Deeper Look may determine).
- 2.2. Deeper Look may, in its absolute discretion, vary the payment terms of such accounts provided written notice equivalent to the prevailing fee payment period is provided by Deeper Look to The Client.

- 2.3. The initial payment detailed in the Order Form for printing, graphic design or website design works must be paid prior to the commencement of design works by Deeper Look. The Client acknowledges that the initial payment is a non-refundable payment.
- 2.4. The final payment for works completed by Deeper Look must be made as provided for in the Order Form. Deeper Look will issue an invoice upon completion of the project.

2.5. Prepayment

Deeper Look may, in its absolute discretion, require The Client to prepay an amount specified by Deeper Look prior to it performing any of the works subject to this Agreement.

2.6. Corporate Client

Where The Client is a corporate entity Deeper Look reserves the right to require of the Director/s of the corporate entity to provide a personal guarantee in support of the obligations of the corporate Client pursuant to the terms of this Agreement.

2.7. Late Payment Fee

Deeper Look may, at its option, impose a late payment fee of 1.1% per month compounding with respect to all monies owing by The Client to Deeper Look. This fee shall be calculated on the daily outstanding balance of any amounts owing to Deeper Look by The Client, and shall accrue from the day that the account first became overdue until Deeper Look has received payment in full from The Client.

- 2.8. If The Client fails to pay an account issued by Deeper Look for services provided by Deeper Look it may, at its discretion, decline to provide further service/s to The Client until the outstanding account/s are paid. Deeper Look further reserves the right in such an event to suspend access to The Client's website/s, email account/s or other services provided by Deeper Look to The Client. Deeper Look reserves the right, at its absolute discretion, to charge a reconnection fee to effect the reinstatement of suspended services.

3. **WEBSITE DESIGN AND DEVELOPMENT**

- 3.1. The Client acknowledges that the standard of the intended design works detailed in the Deeper Look portfolio (www.deeperlook.com.au) is a fair representation of the design The Client can expect to secure for its own website.

3.2. The website concept design

Deeper Look will either update the existing website graphic design (if one exists) or will create a completely new website graphic design concept for The

Client. The conceptual stage requires continual and timely feedback from The Client.

3.3. Number of website design concepts and design variations

- (a) One design concept will be provided with up to three concept variations completed if required.
- (b) A second design concept can be provided on request only if there have been no design variations requested on the first design concept. If a second design concept is requested only one concept variation is included.

All additional design variations and any further design concepts will be charged at the Standard Hourly Rate unless otherwise agreed in writing by both parties.

3.4. Design Concept Approval

When the design concept and any requested design variations are complete, The Client must notify Deeper Look in writing that the design concept is approved. Any further design variations will be charged at the Standard Hourly Rate. It is much more time and cost effective to make any design variations before proceeding to the next stage of the website development.

No further work will be undertaken on the website without written design concept approval.

3.5. Website design and development does not include any Adobe Flash design or development, or animated GIF design or development unless otherwise agreed upon by both parties.

3.6. All content entered into the website must be proof read by The Client and any errors which require updates must be communicated to Deeper Look forthwith in writing.

3.7. Content Resources

The Client must provide the web content resources, including text and photos. If suitable photos are not provided, Deeper Look may look for stock photography which may incur an additional charge to The Client.

3.8. Post Agreement Changes

If changes are required to the website, the details of the changes must be submitted to Deeper Look in writing. Deeper Look will determine if the changes are covered by the scope of the original Agreement. If the changes are deemed to be outside of the scope by Deeper Look then a quote will be provided to The Client for changes.

3.9. Content Ownership

The Client warrants that the Intellectual Property content provided by The Client to Deeper Look is the unencumbered property of The Client.

- 3.10. At the time of launching The Client's website, Deeper Look will make the website compatible with versions of Google Chrome and Mozilla Firefox released in the previous year from when the site was launched.
- 3.11. The Client gives permission to Deeper Look to access The Client's Google Analytics account, or to set up a new Google Analytics account on The Client's behalf.

4. GRAPHIC DESIGN

4.1. Number of Graphic Design Concepts and Design Variations

(a) Logo Design

- (i) A minimum of three logo design concepts will be provided with up to three concept variations included on the selected logo design concept only.
- (ii) An additional design concept can be provided on request only if there have been no design variations requested on any of the first design concepts. If an additional design concept is requested, only one concept variation is included.

(b) Other designs (including, but not limited to, brochures, flyers, business cards, letterheads etc.)

- (i) One design concept will be provided with up to three concept variations included.
- (ii) An additional design concept can be provided on request only if there have been no design variations requested on the first design concept. If a second design concept is requested only one concept variation is included.

Any further design variations and design concepts will be charged at the Standard Hourly Rate.

4.2. Design Concept Approval

When the design concept and any requested design variations are complete, The Client must notify Deeper Look in writing that the design concept is approved. Any further design variations will be charged at the Standard Hourly Rate.

4.3. Content Supply and Approval

The Client is required to supply the content for the graphic design in final draft format.

All content entered into the design must be proof read by The Client and approved in writing by email.

4.4. Content Resources

The Client must provide the content resources, including text and photos. If suitable photos are not provided Deeper Look may look for stock photography which may incur a small additional charge. Deeper Look will quote The Client for the use of stock photography prior to purchasing the images.

5. **PRINTING**

5.1. Deeper Look will provide The Client with a proof of the item to be printed which must be checked carefully by The Client, and approved in writing to Deeper Look before Deeper Look will commence the printing process. Deeper Look will not be responsible or held liable under any circumstances for any errors in the printed item that appeared on the proof that was approved by The Client.

5.2. The Client warrants that the Intellectual Property of the content provided by The Client to Deeper Look is the unencumbered property of The Client.

5.3. The Client acknowledges that the printed colours may vary from print run to print run and/or from job to job or from front to back. The Client also acknowledges that trimming of the printed item may vary up to 3mm.

5.4. The Client acknowledges that Deeper Look cannot guarantee the delivery time of any printed material. All turnaround and delivery times quoted by Deeper Look to The Client are estimates only, and although Deeper Look will make every effort to meet the expected delivery time, under no circumstances is Deeper Look liable for any late or overdue printing deliverables. In addition, delays or damage during shipping are the sole responsibility of the shipping supplier. The Force Majeure provision as hereinbefore defined applies to this clause 5.4 and generally. Deeper Look is not liable for any damage sustained by The Client whether direct, indirect or consequential as a consequence of a Force Majeure event.

5.5. Deeper Look reserves its right to request receipt of payment from The Client before sending the artwork to the printer.

6. **SEARCH ENGINE OPTIMISATION (SEO), WEBIQ & OTHER ONLINE MARKETING SERVICES**

6.1. The Client acknowledges and agrees that it is not possible for Deeper Look to provide a specific ranking result on any search engine. Search engines have their own ranking algorithms which cannot be controlled by any third party.

6.2. The Client acknowledges and agrees that Deeper Look cannot guarantee any increased website traffic or sales.

- 6.3. These services may require the content on The Client's website to be changed. Deeper Look is permitted to make changes without The Client's direct approval.
- 6.4. Deeper Look cannot warrant that The Client's website rankings will not go down as a result of the online marketing services provided by Deeper Look and under no circumstances is Deeper Look liable for any loss of business income as a result of any drop in The Client's website rankings. While a drop in rankings is unlikely, Deeper Look does not control the search engine algorithms, and cannot predict future changes to these algorithms.
- 6.5. The Client acknowledges and agrees that Deeper Look reserves the right to outsource SEO work to subcontractors or affiliates. If this does occur, Deeper Look may be required to pass on The Client's website login information, and any other relevant login details.

7. GOOGLE ADWORDS MANAGEMENT (STANDALONE OR BUNDLED WITH WEBIQ OR OTHER ONLINE MARKETING SERVICES)

- 7.1. The Client gives permission to Deeper Look to access The Client's Google AdWords account, to add The Client's account to Deeper Look's Google Client Centre account, or to set up a new Google AdWords account on The Client's behalf.
- 7.2. All click fees charged by Google will be paid to Google directly by The Client.
- 7.3. On termination of this Agreement, Deeper Look reserves the right to remove or delete any of the AdGroups and associated ads and keywords from The Client's Google AdWords Account that were created by Deeper Look.
- 7.4. The Client acknowledges and agrees that Deeper Look may disable The Client's Google AdWords account if The Client's account with Deeper Look becomes overdue.
- 7.5. The Client acknowledges and agrees that Deeper Look will not be held liable for any losses incurred by The Client due to incorrect information or misspellings in the ads.
- 7.6. The Client acknowledges and agrees that Deeper Look will not be held liable for any losses incurred by The Client due to unauthorised third parties making changes to their Google AdWords account.
- 7.7. The monthly management items outlined in Deeper Look's AdWords management packages may not be completed every month. The monthly management items are a guide only and indicate what work is done in an average month. Some monthly management items may not be required each month.
- 7.8. The Client acknowledges and agrees that Deeper Look reserves the right to outsource AdWords management work to subcontractors or affiliates. If this

does occur, Deeper Look may be required to pass on The Client's Google AdWords account login information, and any other relevant login details.

- 7.9. The Client acknowledges and agrees that Deeper Look will not be held responsible if The Client's Google AdWords account is cancelled by Google for any reason.

8. DOMAIN NAMES

- 8.1. Deeper Look is a domain name reseller, and therefore The Client will be bound by the terms and conditions of the upstream domain name registrar. It is the responsibility of The Client to seek out these terms and conditions if they wish to do so.
- 8.2. The Client acknowledges and agrees that Deeper Look will not be held liable for losses incurred by The Client due to the expiration of domain names under any circumstances.
- 8.3. It is the responsibility of The Client to renew the domain name before the expiration date. Deeper Look will endeavour to remind The Client of upcoming expiration dates, however it is not the responsibility of Deeper Look to do so.
- 8.4. Deeper Look will not be held liable for any losses incurred by The Client due to unauthorised third parties making changes to domain name settings.
- 8.5. It is the responsibility of The Client to check for correct spelling when registering a domain name, or when advising Deeper Look to register a domain name on their behalf.
- 8.6. Deeper Look reserves the right to not register or renew a domain name for The Client until payment has been received.
- 8.7. Deeper Look reserves the right to change domain name pricing without notice.

9. WEBSITE HOSTING AND EMAIL HOSTING

- 9.1. Deeper Look makes every effort to maintain the highest level of server uptime. However, the server may go down from time to time and there may be interruptions. Deeper Look is not liable for any errors or interruption in service, whether within or outside of Deeper Look's reasonable control. Deeper Look shall remain free of liability from the following, including but not limited to, the loss of data, loss of information security, loss of business or sales caused by server downtime (including loss of sales through any shopping cart module), and loss of emails.
- 9.2. The website and email hosting service is provided on an "as is, as available" basis. Deeper Look gives no warranty, express or implied, for the website and email hosting services provided.

- 9.3. Deeper Look will not be held liable for reimbursement for losses of income due to the disruption of the website and email hosting service by Deeper Look or its providers, beyond the fees paid by The Client to Deeper Look for these services.
- 9.4. While Deeper Look shall make every reasonable effort to protect data stored on its servers, Deeper Look is not responsible for The Client's data, files or directories residing on the servers. It is The Client's responsibility to make backups of any data they feel necessary to protect from loss.
- 9.5. The website and email hosting service is provided by Deeper Look from its data centres in Australia and overseas. Deeper Look will determine in its absolute discretion from time to time the data centre location from which the website and email hosting service is provided. Deeper Look reserves the right to migrate The Client's website and email to a different server for any reason. The Client acknowledges that there may be some downtime during this migration process.
- 9.6. The Client agrees to only use the website and email hosting service for lawful purposes. This includes (but is not limited to) material that is obscene, threatening, harassing, or violates copyright or intellectual property laws in any way.
- 9.7. The Client agrees to indemnify and hold harmless Deeper Look in any legal action which arises as a result of use of the website and email hosting service, without limitation or exception.
- 9.8. The Client agrees not to maliciously or intentionally interfere with the proper operation of the website and email hosting service, or any of Deeper Look's related systems or services, including but not limited to defeating identification procedures, obtaining access beyond that which The Client is authorised for, and impairing the availability, reliability, or quality of service for other clients. The Client further agrees not to interfere with the proper operation of other systems reachable through the Internet, including any attempts at unauthorised access.
- 9.9. The Client agrees that the security of their account is first and foremost their own responsibility. The Client further agrees that if they believe the security of their account has been compromised in any way, The Client will notify Deeper Look immediately.
- 9.10. The Client agrees not to transmit unsolicited or prohibited advertising through email or through any of Deeper Look's other services. The Client specifically agrees that the use of Deeper Look's services for unsolicited mass mailings or postings (commonly known as "Spam") will cause The Client's services to be terminated immediately and without warning, and that The Client will be held legally responsible for any and all damages to Deeper Look, both monetary and in reputation.
- 9.11. To use Deeper Look's content management system, The Client's website must be hosted on Deeper Look's servers. If The Client would like to move their

website to another server, then a HTML version of the website can be provided for a fee of \$120 plus GST. The Client acknowledges that by doing this they will lose the functionality of the content management system and other features and functionality of the website.

9.12. The Client acknowledges that any web forms must be constructed and implemented by Deeper Look if using Deeper Look's content management system, and that there will be an additional charge for this even if it has not been included in the Order Form.

9.13. The Client will be granted direct access to their cPanel hosting account, including FTP access and MySQL database access.

9.14. Hosting packages include the following (anything outside these limits will be custom quoted):

Package	POP Email Addresses Included	Bandwidth (MB)	Diskspace (MB)
DNS Hosting / Redirects - \$4.95+GST/mth	0	N/A	N/A
Email Only - \$9.95+GST/mth	1	200	100MB per mailbox
Email Only - \$14.95+GST/mth	10	500	100MB per mailbox
Email Only - \$24.95+GST/mth	30	1000	100MB per mailbox
CPanel Web Hosting - \$29.95+GST/mth	30	500	250MB web + 100MB per mailbox

9.15. To terminate an email hosting facility The Client must complete a Hosting Termination Form. Fees applicable to website and email hosting will continue to apply until Deeper Look is in receipt of a Hosting Termination Form.

9.16. For websites that are not hosted by Deeper Look, The Client acknowledges that Deeper Look has no control over the quality of the hosting service provided by the hosting company (whether recommended by Deeper Look or not), and is not responsible for any negative outcomes associated with the hosting service (including but not limited to loss of data, loss of business, website downtime, etc). It is the responsibility of The Client to ensure bills issued by the hosting company are paid on time to prevent loss of data and/or disruption to their hosting service.

10. SUPPORT SERVICE

10.1. As part of the support service, Deeper Look performs ongoing maintenance to The Client's website.

10.2. While Deeper Look will make every effort to minimise issues that maintenance may cause, there is always the possibility the website problems may occur when maintenance is performed. Deeper Look is not liable for any problems that may occur during maintenance (including, but not limited to security problems, technical problems, visual problems, loss of data or loss of business).

10.3. While performing regular maintenance can help to reduce the risk of website problems (such as security problems, technical problems, etc), there is still a chance these problems could occur.

- 10.4. If Deeper Look is not able to resolve any problems that may occur on the website, it may be necessary for The Client to contract a specialist to help with specific problems. Depending on the problem, Deeper Look may be able to provide a recommendation of a suitable specialist.
- 10.5. While the support process does include a regular backup facility, Deeper Look recommends that The Client also keep their own set of regular backups.
- 10.6. If more than one hour is required by Deeper Look to solve a complicated issue, additional charges may be applied. Deeper Look will endeavour to inform The Client of additional charges before commencing work on the issue, however if the issue is urgent Deeper Look has the right to carry out the additional works and invoice The Client for the time spent at the Standard Hourly Rate.

11. FEES – HOW CALCULATED

- (a) Deeper Look will charge its time on the basis of a fifteen minute unit with one unit applying to any time of fifteen minutes or part thereof. Each unit is charged as one quarter of the Standard Hourly Rate.
- (b) Deeper Look may vary these rates on thirty days notice.

12. TERMINATION OF THIS AGREEMENT

- 12.1. The Client may terminate this Agreement upon giving fourteen days notice in writing in that regard to Deeper Look. Such termination shall take effect upon the expiry of the said notice period and upon payment of any and all outstanding fees payable by The Client to Deeper Look.
- 12.2. Deeper Look may at its option terminate this Agreement and cease work on behalf of The Client if The Client:-
 - (a) Breaches any one or more terms of this Agreement and fails to rectify such breach within fourteen days of Deeper Look requiring rectification of such breach;
 - (b) Requires Deeper Look to act unlawfully or unethically;
 - (c) Fails to give Deeper Look adequate and ongoing instructions;
 - (d) Fails to pay any accounts or fails to provide any advance payment required;
 - (e) Becomes bankrupt; or
 - (f) If a corporate client enters into administration or liquidation.
- 12.3. Deeper Look will give The Client not less than seven days notice of its intentions to terminate the Agreement.
- 12.4. If this agreement is terminated by Deeper Look or The Client, Deeper Look is entitled to all outstanding fees and costs up to the termination date and will be entitled to retain possession of The Client's files or other property until payment of those fees and costs. Deeper Look reserves the right in its absolute discretion to discontinue the services to The Client in such circumstances without reference to The Client.

13. QUALIFIED ADVICE

The Client acknowledges that from time to time certain advice may be given by Deeper Look to The Client which may be based on assumptions and/or qualifications which may be conditional upon information not yet available or which may be based on future events (“Qualifications”).

The Client agrees that if it acts on part of an advice that contains Qualifications Deeper Look will not be held liable in relation to that part of the advice, which is subject to the Qualifications in circumstances where further information is not available or actual events are not contemplated by or included in the Qualifications that make that part of Deeper Look's advice incorrect.

14. THE CLIENT’S RECORDS

On completion of any work, Deeper Look may store The Client’s records relating to the work for such period as Deeper Look, in its absolute discretion, shall deem fit upon Deeper Look’s present business premises or in such offsite storage facility as Deeper Look may in its absolute discretion determine.

15. CLIENT RESPONSIBLE FOR GST

The Client acknowledges that any liability imposed upon Deeper Look pursuant to *A New Tax System (Goods and Services Tax) Act 1999* in respect of taxable supplies will be passed on by Deeper Look to The Client and included in accounts and shall be payable by The Client.

16. JURISDICTION

This Agreement is governed by the laws of the State of Queensland.

17. INTELLECTUAL PROPERTY

All documentation and software provided to The Client (including but not limited to Order Forms, proposal forms, email setup forms, web design briefs), remain the intellectual property of Deeper Look.

18. LIMITATION OF LIABILITY

18.1. The Client shall have no claim against Deeper Look at all times, subject to the terms of this Agreement, and indemnifies Deeper Look, its officers, employees, agents and contractors from any loss (including legal costs and expenses) or liability reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of Deeper Look, its employees, agents or subcontractors in connection with this Agreement.

18.2. If any hosting provided by Deeper Look proves to be deficient or defective in any manner then the liability of Deeper Look shall be limited to providing a

refund of monies paid for hosting during that period that such deficiency or defect existed.

19. SEVERABILITY

Each provision of this contract and each part thereof shall be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part shall be severed and the remainder shall be read and construed as if the severed part had not existed.

20. ENTIRE AGREEMENT

20.1. This contract constitutes the entire Agreement between the parties and supersedes all communications, negotiations, arrangements and Agreements, whether oral or in writing, manual or electronic between the parties.

20.2. Deeper Look may vary these terms, including pricing for any service, or the terms of the operation of the service, at any time by updating this document on Deeper Look's website, or by emailing or in writing. All changes will become effective upon publication of the changes.

21. NOTICES

Any statement, demand or notice to either party to this Agreement may be validly served by being delivered or sent by registered post to the last known address of the addressee or sent by facsimile transmission or email transmission to the address of the addressee.