

1. PROVISION OF SERVICES

1.1 Milc Studio. ABN 56 947 996 396.

Milc Studio will provide you with the services set out in your confirmed Quotation. Only services described in the Quotation will be supplied by Milc Studio. Any amendments, additions or scheduling changes must be agreed to in writing. This Quotation and the following clauses are the general Terms and Conditions on which those services are supplied and together form the total agreement between us.

2. COSTS AND PAYMENTS

- 2.1 All charges are payable as set out in the Quotation. Prices quoted by Milc Studio may change at any time without notice, please check the price on your Quotation before confirmation. Milc Studio cost estimates are valid for a period of 30 days.**
- 2.2 You will remain liable for all fees during any period when Services have been discontinued or suspended due to a failure on your part to comply with these Terms and Conditions.**
- 2.3 You will be invoiced as agreed in your Quotation. All accounts are payable within 14 days of invoice.**
- 2.4 You are liable to pay overdue interest at 5% per 14 day period on any amounts (whether part or full) not paid within 14 days of invoice. All intellectual property rights will remain with Milc Studio until final payment.**
- 2.5 Charges must be paid in full, without counter claim or deduction unless agreed in writing prior to date of invoice.**
- 2.6 Milc Studio reserves the right to prioritise early paying clients and to charge urgency fees for turnaround within 72 hours or over weekend periods and public holidays.**
- 2.7 No final artwork or files will be delivered until final invoices are paid in full. Payment by cheque will require clearance before supply of files. Delivery being: Supply of final artwork digital files to printer, publication, on disk, via email or uploaded to a nominated ISP. Construction files remain the property of Milc Studio unless arranged otherwise.**
- 2.8 Printer, ISP and Manufacturer Liaison is charged at our current rate per hour.**
- 2.9 Before commencement of any services, 50% of the quoted cost is required.**
- 2.10 Unless otherwise agreed in your quotation, all design and layout costs include 2 sets of author amendments. Further amendments required are charged at our current hourly rate or as quoted.**
- 2.11 Any dispute in regards to your invoice must be raised in writing within 14 days of the date of invoice.**

3. LIMITATION OF LIABILITY

- 3.1 All terms conditions, warranties, undertakings inducements and representations, whether expressed or implied, statutory or otherwise relating to the provision of services by Milc Studio not contained in the Agreement are excluded and Milc Studio will not accept liability for any loss or damage (including consequential loss or damage) however caused (whether by negligence or otherwise) which may be suffered or incurred or which may arise directly or indirectly with respect to the service.**
- 3.2 Where any applicable legislation implies any term, condition or warranty into the Agreement or in respect of Milc Studio's relationship with you, or otherwise gives you a particular remedy against Milc Studio and the legislation or any other legislation renders void or prohibits provisions excluding or modifying the application of, exercise of, or liability under such implied term, condition, warranty or remedy will be deemed to be included in the Agreement or as the case may require apply to the relationship between Milc Studio and you. However, Milc Studio's liability for any such breach of such implied term, condition or warranty or under such remedy, will be limited, at Milc Studio's option, in any one or more of the ways permitted in that legislation, including, where so permitted if the breach relates to Services the supplying of those services again or the payment of the cost of having those Services supplied again.**
- 3.3 You acknowledge that printed material and web sites cannot be guaranteed to be 100% error free in construction and acknowledge that the existence of errors falling short of a complete failure shall not constitute a reason to terminate this agreement. This includes typical print anomalies and particularly relating to colour management – see 10.**

4. SUSPENSION OF SERVICES

- 4.1 Milc Studio reserves the right to suspend services in any case where you fail to perform your obligations under this agreement.**
- 4.2 Milc Studio may from time to time and without notice or liability to you suspend any services if the reason for doing so is an event beyond the reasonable control of Milc Studio.**

5. TERMINATION

- 5.1 Milc Studio may discontinue services if an amount payable to Milc Studio is overdue or take down a website permanently in any case where an amount payable is overdue by more than 14 days. In any such event, you remain liable for the total cost of the contract including all disbursements; unless otherwise agreed between the parties.**

6. CONTENTS OF UNDERTAKINGS

- 6.1 You will be solely responsible for the accuracy of content of your undertakings. Milc Studio is not responsible for proof reading any content unless specifically agreed. Every effort is made to ensure errors do not occur.**
- 6.2 Milc Studio makes no representations to you concerning the content or functionality of your undertaking. It is your responsibility to ensure that it meets your requirements.**
- 6.3 If you provide Milc Studio with goods, material, photographs, film, data or information to be used in any form, you hereby warrant that these do not infringe the rights of third parties and indemnify Milc Studio against any action taken against Milc Studio by any such third party.**
- 6.4 Without limiting the generality of the foregoing, you agree not to infringe the copyright trademark, privacy or personal or proprietary rights of third parties, supply libellous, abusive, obscene material or disparage the products or services of any third party.**
- 6.5 Milc Studio for its part hereby undertakes not to knowingly infringe the rights of third parties in activities conducted on your behalf.**
- 6.6 You are solely responsible for dealing with persons who access your data or webpage and warrant that you will not refer complaints or inquiries in relation to such data to us.**

7. TECHNICAL SUPPORT, MODIFICATIONS AND MAINTENANCE

7.1 Technical assistance from Milc Studio via telephone or email is charged at our current hourly rate.

8. DISPUTE RESOLUTION

8.1 The parties agree that if any dispute should arise under this agreement, attempts in good faith by both parties will be made to resolve the matter fairly before resorting to court procedures. In doing so, each party agrees to use its best endeavours to:

- a) Clearly communicate in writing the background facts leading to or causing the dispute
- b) Set out clearly what action is required to settle the dispute
- c) Select a way of resolving the dispute and explain why that way of resolving the dispute can be said to be a fair resolution
- d) Discuss specific means of avoiding such disputes in the future

8.2 Attempts to resolve the dispute must follow the following procedure:

- a) The person complaining shall set out in writing the background, the issues and the outcome desired.
- b) The person to whom the complaint is addressed will reply in writing within 10 business days to each issue in dispute setting out its perspective on the issue and the outcome desired.
- c) If the dispute is not resolved in accordance with this exchange of written issues and outcomes, then the complainant will raise the matter with a neutral professional adviser or Alternative Dispute Resolution (ADR) provider listed in a relevant publication of the Department of Workplace Relations and Small Business or similar government department within 10 business days.
- d) If the dispute is not resolved in accordance with such reference, the matter shall be referred to a single agreed arbitrator within 10 business days; whose decision shall be final.
- e) In the case of disagreement on the appointment of a single arbitrator, then the parties shall be entitled to nominate one independent arbitrator within 7 days of disagreement and a coin will be tossed by an independent person to decide which will act as arbitrator of the dispute.
- f) Action taken to settle the dispute at each stage must be undertaken promptly and the parties shall equally share the costs associated with the this dispute settlement procedure.

9. INTELLECTUAL PROPERTY

9.1 All creation files remain the property of Milc Studio.

9.2 Milc Studio retains the Copyright in and the right to use all artwork created in advancing the profile of Milc Studio and to be recognised for artwork created by Milc Studio.

9.3 Milc Studio shall be free to reproduce, use, disclose, display, exhibit, transmit, perform, create derivative works, and distribute any item from your undertaking unless specifically agreed otherwise. Milc Studio shall be free to use any ideas, concepts, expertise or techniques acquired in construction of the undertaking for any purpose whatsoever, including but not limited to developing, manufacturing and marketing products and other items incorporating such information unless specifically agreed otherwise.

9.4 Milc Studio observes Privacy Laws and Guidelines relating to personal data.

10. COLOUR REPRODUCTION

10.1 Milc Studio is a colour managed work environment. All applicable electronic devices are colour profiled and maintained to ensure consistent colour accurate results.

10.2 Images are supplied as .JPG, .TIF, .PDF or .EPS file formats.

10.3 Our product is an RGB file and has been embedded with an ICC (International Color Consortium) profile. Milc Studio's embedded RGB profile is 'ColorMatch RGB'.

10.4 Any image editing has been completed on a monitor profiled to the international standard D65. Conformance to this standard has been achieved with measuring instrumentation. Any monitor profiled to ICC standards will display the file correctly.

10.5 Images have been prepared on a Macintosh system with a monitor gamma of 1.8. This is well suited to publication on a Macintosh.

10.6 If publishing from a Windows PC, conversion of image files to a colour space with a gamma of 2.2 may be required. Milc Studio recommends 'AdobeRGB 1998' or 'sRGB' as suitable RGB colour spaces.

10.7 Where a CMYK file is supplied, the file has been converted using a Generic CMYK profile with an ink limit of 310%.

10.8 CMYK is a highly 'device dependent' colour space. Milc Studio cannot accept responsibility for any CMYK file supplied producing accurate colour results on your CMYK printer or press.

10.9 The CMYK file is provided with no liability for colour issues which may arise. Please verify the suitability of the CMYK file for your devices or processes.

11. GENERAL

11.1 If any of these Terms and Conditions (in part or in full) is void or unenforceable, it is taken to be removed and no longer forms part of the Agreement between us. The remaining Terms and Conditions remain in full force and effect.