



Standard Terms and Conditions

of COM Pty Ltd, trading as

NoBull Marketing

Scope of Works

The scope of works shall be mutually agreed in advance and defined in a letter of engagement signed by the Client before the engagement commences.

Where no letter of engagement is signed, the scope of works shall be determined from such written communications as exist – primarily email.

Confidentiality

In the course of performing the scope of works, both parties recognise that either party may come in contact with or become familiar with information which the Client or NoBull Marketing or its subsidiaries or affiliates may consider confidential outside the public domain. This information may include, but is not limited to, information pertaining to business systems which information may be of value to a competitor.

Both parties agree to keep all such information confidential and not to discuss or divulge it to anyone other than appropriate personnel or their designees disclose any of the information in any form to anyone else; or use any of the information except to:

- i. acquire or check information in connection with this agreement and the transactions contemplated by it; or
- ii. perform any of its obligations under this agreement or in relation to any of the transactions contemplated by it,
- iii. unless:
- iv. the person who provides the information has first agreed in writing;
- v. the information is disclosed to a professional adviser, banker or financial adviser of the party or to a person whose consent is required under this agreement or for a transaction contemplated by it and that person undertakes to the person who provides the information:
 - (i) not to disclose any of the information in any form to anyone else; and
 - (ii) only to use the information for the purposes of advising the party or financing the party or considering whether to give that consent (as the case may be);
- vi. the law requires the disclosure or use; or
- vii. the information is available generally (but not if it is because a person has contravened a confidentiality obligation)

By agreeing to the engagement and accepting these services you acknowledge that information disclosed may be shared with individuals overseas who are contracted by NoBull Marketing.

Intellectual Property

All intellectual property specific to the Client's business created by NoBull Marketing during the course of this contract remains the property of the Client.

Payment Terms

Invoices shall be sent by email and shall be deemed received at the time of sending. Unless otherwise agreed in writing, all monies payable by the Client to NoBull Marketing shall be paid within seven (7) days of the date of invoice or the date the invoice is sent. Monies not paid within that period may attract interest from the date seven (7) days after the date of the invoice until payment, at the rate fixed by the Commonwealth Bank of Australia on overdrafts under \$AUD100,000 plus 2% per annum, plus any cost incurred in recovering the debt.

Disputed Invoices

Any dispute regarding an invoice shall be notified to the parties within seven (7) days of the date of invoice. Parties must be willing to engage and attempt to resolve the issue within the next seven (7) days. If no resolution is attained within this period, the matter will move to mediated dispute resolution.

Expenses

NoBull Marketing will take all reasonable steps to advise the Client in advance of any reimbursable expenses.

Dispute Resolution

- i. A party will not start arbitration or court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this agreement ('dispute') unless it has complied with this clause.
- ii. A party claiming that a dispute has arisen must notify the other party, giving details of the dispute.
- iii. During the 21 day period after a notice is given of a dispute (or longer period agreed in writing by the parties to the dispute) ('initial period') each party to the dispute ('disputant') must use its best efforts to resolve the dispute.
- iv. If the disputants are unable to resolve the dispute within the initial period, the parties agree to refer their dispute to Arbitration administered by the Australian Commercial Disputes Centre ('ACDC').
- v. The Arbitration shall be conducted in Sydney CBD in accordance with the ACDC Rules for Arbitration which are operating at the time the dispute is referred to ACDC and which terms are hereby deemed incorporated into this agreement.
- vi. This clause shall survive termination of this agreement.
- vii. If in relation to a dispute, a disputant breaches any provision of clauses relating to dispute resolution, each other disputant need not comply with the said clauses, in relation to that dispute.

Limitation of Liability

Despite any other provision of terms, the Client agrees that the liability of NoBull Marketing is limited to the amount paid for Services under the scope of the engagement letter.

Director's Indemnity

In the event that the Client is unable to discharge its liabilities to NoBull Marketing, then the Client's Directors or Trustees agree to personally indemnify us for any such liability.

Notice

Any notice or communication permitted or required by this Agreement shall be deemed effective when delivered by email to an active email address as specified in the letter of engagement or used in previous correspondence.

Miscellaneous

- i. This Agreement constitutes the entire agreement of the parties with regard to the subject matter hereof, and replaces and supersedes all other agreements or understandings, whether written or oral. No amendment or extension of the Agreement shall be binding unless in writing and signed by both parties.
- ii. A reference to any party to this agreement, or any other document or arrangement, includes that party's executors, administrators, substitutes, successors and permitted assigns.
- iii. This Agreement shall be governed by the laws of the State of NSW, Australia.
- iv. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision.
- v. Where the day on or by which something must be done is not a Business Day, that thing must be done on or by the following Business Day.
- vi. Headings are for convenience only and do not affect the interpretation of this document.
- vii. This document may not be construed adversely to a party just because that party prepared it.

Dictionary

In this document:

- i. **Client** means the party engaging the services of NoBull Marketing, generally through a signed engagement letter.
- ii. **Associate** means any person who is controlled, directly or indirectly, or acts under the direction of the Seller and includes an immediate family member.
- iii. **Services** means the services to be provided by NoBull Marketing of marketing and sales planning, process improvement, project management or other services as mutually agreed.
- iv. A term or expression starting with a capital letter:
 - a. which is defined in this Dictionary, has the meaning given to it in this Dictionary; and
 - b. which is defined in the Corporations Act 2001 but is not defined in this Dictionary, has the same meaning as in the Corporations Act 2001.
- v. Unless the context otherwise requires:
 - a. words importing the singular include the plural and vice versa;
 - b. words which are gender neutral or gender specific include each gender;
 - c. other parts of speech and grammatical forms of a word or phrase defined in the document have a corresponding meaning;
 - d. an expression importing a natural person includes a company, trust, partnership, joint venture, association, corporation or other body corporate;
 - e. a reference to a thing (including, but not limited to, a chose-in-action or other right) includes a part of that thing;
 - f. a reference to a clause, party, schedule or attachment is a reference to a clause of this document, and a party, schedule or attachment to, this document and a reference to this document includes a schedule and attachment to this document;
 - g. a reference to a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law judgment, rule of common law or equity or a rule of an applicable stock exchange and is a reference to that law as amended, consolidated or replaced;
 - h. a reference to a document includes all amendments or supplements to that document, or replacements or novations of it;
 - i. a reference to a party to a document includes that party's successors and permitted assigns;
 - j. including and similar words do not imply any limitation.
 - k. an agreement on the part of two or more persons binds them jointly and severally; and
 - l. a reference to an agreement, other than this document, includes an undertaking, deed, agreement or legally enforceable arrangement or understanding, whether or not in writing.