Master Terms and Conditions

SECTION A: GENERAL TERMS

1. **SERVICES AND STATEMENTS OF WORK**

1.1. MetaWeb agrees to supply and Client agrees to acquire Services on the terms and conditions of this Agreement.

1.2. If expressly stated in a Proposal, Client acknowledges and agrees that MetaWeb will be the exclusive provider of the Services. Client may have a third party perform the whole or any part of the Services where MetaWeb does not agree to provide such Services requested by Client on reasonable terms.

1.3. If and when Client wishes to order Services, the parties will prepare a Statement of Work. Each Statement of Work must contain the details and be substantially similar in form to the Statement of Work Template.

1.4. When a Statement of Work has been agreed by the parties, it will be incorporated into this Agreement and will be governed by these terms.

1.5. If either party wishes to change the Services or request a change to a Statement of Work, then both parties agree to follow the variation process referred to in Clause 6.

2. **TERM**

2.1. This Agreement commences on the Commencement Date and continues for the Term. At the expiry of the Term, this Agreement will automatically renew for successive periods of 12 months unless either party provides the other at least 3 months prior notice in writing that it wishes to terminate this Agreement and provided that there are no Statements of Work currently on foot.

2.2. Each Statement of Work commences on the Statement of Work Commencement Date and continues until the works contemplated therein are handed over to Client, unless terminated earlier in accordance with these General Terms.

3. **STRUCTURE OF THE AGREEMENT**

3.1. This Agreement consists of the following documents:

(a) these Master Terms and Conditions;
(b) each Statement of Work; any
(c) any Proposal provided by MetaWeb.

3.2. If there is any inconsistency between a provision of the documents set out in this clause, then the provision in the document listed higher in the list prevails to the extent of the inconsistency.

4. **METAWEB'S GENERAL OBLIGATIONS AND RESPONSIBILITIES**

4.1. MetaWeb will provide the Services as requested by Client and specified in a Statement of Work from time to time during the Term, in a professional manner and in accordance with the relevant Statement of Work.

4.2. In respect of all Client Items supplied by Client, in accordance with clause 5, MetaWeb must:

(a) use the Client Items only for the purposes of this Agreement;

(b) take reasonable care of Client Items; and

(c) return to Client all Client Items which have been in its custody when no longer required for the purposes of this Agreement.

4.3. The Client acknowledges that MetaWeb will retain administrator rights for all Services irrespective of where or with whom the Services are hosted.

5. **CLIENT'S GENERAL OBLIGATIONS AND RESPONSIBILITIES**

5.1 Client will request MetaWeb to provide Services in accordance with the terms of this Agreement and must:

(a) provide to MetaWeb those Client Items in a form suitable for.use by MetaWeb to provide the Services in the manner set out in the relevant Statement of Work;

(b) pay the agreed Fees for Services;

(c) provide any assistance required to allow MetaWeb to perform the Services as set out in the Proposal or relevant Statement of Work.

6. **DELAY AND VARIATIONS**

6.1. MetaWeb agrees to use its best endeavours to ensure the performance of the Services at the times and in the manner set out in the relevant Statement of Work. Other than as expressly set out in this Agreement, the Client will have no remedy against MetaWeb in relation to delayed completion of the Services.

6.2. Within 5 Business Days of MetaWeb becoming aware that it will be delayed in completing any Services in accordance with the relevant Statement of Work, it will notify Client of the cause and nature of the delay and provide an estimated date of completion of the Services. MetaWeb may extend any date set out in the Statement of Work provided that MetaWeb:

(a) notifies Client as accordance with this clause;

(b) does not postpone the completion of the relevant Services for a period greater than the duration of the period of delay;

(c) takes all reasonable steps in its control to minimise the period of the delay; and

(d) complies with all reasonable directions of Client in respect of the delay.

6.3. If any delay in MetaWeb performing the Services in the manner and at the times set out in the Statement of Work occurs due to any act or omission of Client (including Client failing to provide the Client Items), MetaWeb may extend any dates specified in the Statement of Work by the period of the delay and shall be entitled to recover from Client any reasonable costs and expenses incurred by it as a result of the delay, such costs or experts to be based on the appropriate Fees.

6.4. If any amendment is requested by Client to a Statement of Work after MetaWeb has commenced providing the Services (**Variation**) which in MetaWeb's reasonable opinion requires additional time, material or resources to be provided by MetaWeb (**Additional Services**) such Variation will occur on the following basis:

(a) Client will notify MetaWeb of the Variation required by it (Notice of Variation);

(b) on receipt of the Notice of Variation MetaWeb will provide Client with a written statement (**Statement of Variation**) setting out:

(i) the Variation required to the Statement of Work;
(ii) the Additional Services required due to such Variation; and

      (iii)   the Additional Fees required to undertake the Additional Services;

(c) If Client agrees in writing to:

      (i)   the Variation;
      (ii)   the Additional Services; and
      (iii) the Additional Fees;

the relevant Statement of Work will be taken to have been varied to include such changes as set out in the Statement of Variation.

(d) MetaWeb is under no obligation to commence any Additional Services until the parties have reached agreement under subclause (c).

(e) Notwithstanding subclause (d) if MetaWeb prepares any Additional Services at the request and with the approval of Client, Client will pay for such work as Additional Fees based on the Fees.

7. FEES

7.1. Client must pay the Fees, including any Additional Fees for the Services and, except where the Fees are fixed, all reasonable and incidental expenses incurred by MetaWeb in providing the Services (provided such expenses have been agreed with Client prior to those expenses being incurred).

7.2. Unless otherwise expressly stated, all monetary amounts specified in this Agreement are exclusive of GST.

7.3. If GST is imposed on a Taxable Supply made by one party (the Supplier) to another party (the Recipient) under or in connection with this Agreement:

(a) the price of the Taxable Supply shall be equal to the GST-exclusive consideration that the Recipient must pay to the Supplier for the Taxable Supply under this Agreement increased by an amount (the GST Amount) equal to the amount of GST payable by the Supplier on that Taxable Supply; and

(b) the GST Amount is, subject to the Supplier issuing a Tax Invoice to the Recipient, payable at the same time and in the same manner as the consideration to which it relates.

7.4. The parties agree to assist each other as appropriate to implement the GST Act if applicable.

7.5. Each party must provide to the other all information required to enable Tax Invoices to be issued in accordance with this Agreement.

7.6. If the Recipient does not pay the amount of the GST liability incurred by the Supplier by the due date required under this clause 7 then, in addition, the Recipient must pay the Supplier interest on the amount outstanding from the due date until paid at the same rate from time to time as is payable by a taxpayer to the Commissioner of Taxation on overdue GST.

8. INVOICING AND PAYMENT

8.1. MetaWeb will invoice Client monthly or otherwise in accordance with the Statement of Work or Proposal.

8.2. Unless agreed otherwise in writing, Client must pay each correctly rendered invoice within 14 days of the date of the invoice.

8.3. Payment options will be stipulate within the Statement of Work or Proposal and may include:

(a) upfront payment
(b) staged payments; or
(c) third party finance.

8.4. If MetaWeb does not receive payment of any correctly rendered invoice in full on the date for payment, MetaWeb may:

(a) charge interest on the amount outstanding for so long as it remains outstanding at a rate equal to 3% above the interest rate for overdrafts of $100,000 or more published from time to time by National Australia Bank;

(b) suspend the provision of Services;

(c) temporarily revoke a Client's Licence; or

(d) terminate the Agreement in accordance with clause 15.

8.5. In the event MetaWeb has commenced providing Services to the Client and the Client's third party finance is cancelled before its settlement, the Client will be liable to pay the full value of the Statement of Works to MetaWeb.

9. INTELLECTUAL PROPERTY RIGHTS

9.1. The parties agree that other than as provided in this clause 9, nothing in this Agreement transfers ownership in, or, otherwise grants any rights in any Intellectual Property Rights of a party.

9.2. If any party provides any material to the other party that contains any Intellectual Property Rights which were developed independently of this Agreement by the first party (Pre Existing Material), then the first party grants to the other party a non transferable, non exclusive, royalty free licence to use the Pre Existing Material, for the Term, solely for the purpose of:

(a) in the case of MetaWeb, meeting its obligations to Client under this Agreement; and

(b) in the case of Client, using the Deliverables and Services solely for the purpose of obtaining the benefit of the Services provided.

9.3. If Client provides any Client Items to MetaWeb, then Client grants to MetaWeb a non transferable, non exclusive, royalty-free licence for the Term to use the Client Items solely for the purpose of MetaWeb meeting its obligations to provide the Services under this Agreement.

9.4. Unless otherwise expressly stated to the contrary in a Statement of Work or Proposal and subject to Clauses 9.7 and 9.8, any Intellectual Property Rights in Deliverables created by MetaWeb for Client pursuant to a Statement of Work will be assigned to Client:

(a) subject to payment of all relevant Fees, MetaWeb assigns to Client all rights, title and interest (including all Intellectual Property Rights) in that Deliverables (Assigned Material). This assignment operates as an assignment of future Intellectual Property Rights to the extent that the Assigned Material is not in existence at the date of this Agreement; and

(b) MetaWeb warrants that the use or exploitation of the Assigned Material in any manner does not, and will not infringe any person's rights in the Assigned Material.

9.5. If a Statement of Work vests any Intellectual Property Rights in Deliverables to MetaWeb, then MetaWeb grants to Client a perpetual, non exclusive, royalty free licence to:
(a) use, reproduce, modify and adapt the Deliverables for any purpose connected with Client's business;

(b) permit any person to assist Client to do any of those things referred to in sub-paragraph (a); and

(c) sub licence any of the rights described in sub-paragraphs (a) or (b) to any person.

9.6. Client grants to MetaWeb a non-transferable, non-exclusive, royalty free licence for the Term to use the Deliverables assigned to Client under clause 9.4 solely for the purpose of meeting its obligations to provide the Services under this Agreement.

9.7. Where MetaWeb is to assign Intellectual Property Rights in Deliverables pursuant to clause 9.4, Client acknowledges and agrees that the operation of th e Deliverables may rely on Intellectual Property Rights owned by third parties which MetaWeb cannot assign to Client and that Client may need to licence or acquire those Intellectual Property Rights from those third parties at its cost.

9.8. Client acknowledges and agrees that where MetaWeb is to assign Intellectual Property Rights in Deliverables pursuant to clause 9.4, MetaWeb will not assign any Intellectual Property Rights in any generic software, documentation, templates or data material (but excluding textual, graphical, audio and other material) developed where such an assignment would preclude MetaWeb from making further use of the techniques or know how used in the provision of the Services and in such circumstances, MetaWeb will grant to Client a non-exclusive licence in similar terms to clause 9.5

10. CONFIDENTIAL INFORMATION AND PRIVACY

10.1. Subject to clause 10.2, each party will keep confidential, treat as privileged, only use for the purposes connected with this Agreement for which it has been provided, and not directly or indirectly make any disclosure, or allow any announcement to be made of the Confidential Information of the other party.

10.2. A party may make any disclosure in relation to this Agreement:

(a) to any professional adviser where that person is obliged to keep the information confidential;

(b) to comply with any applicable law, or any requirement of any regulatory body (including any relevant stock exchange);

(c) to any of its employees to whom it is necessary to disclose the information;

(d) to enforce its rights or to defend any claim or action under this Agreement;

(e) to a Related Body Corporate that agrees to comply with the terms of this clause 10;

(f) where the information has come into the public domain through no fault of that party.

10.3. Each party must ensure that its officers, employees, contractors and agents comply with this clause.

10.4. Upon termination, each party will deliver to the other party Confidential Information in its possession and will destroy any Confidential Information if directed to do so by the other party in writing. This clause will survive the termination of the Agreement for any reason.

10.5. Each party shall comply with the Australian Privacy Principles and the Privacy Act 1988 (Cth).

10.6. Client acknowledges and agrees that MetaWeb may share Confidential Information with its Related Body Corporate and third party service providers, whether based in Australia or overseas, for the purpose of providing the Deliverables.

11. ACCEPTANCE

11.1. Client acknowledges that a Deliverable may not be error free and that the Deliverable may contain minor bugs and defects. Such minor bugs or defects shall not constitute a breach by MetaWeb of its obligations under this Agreement and must not form the basis of refusing the Deliverable.

11.2. Client shall be deemed to have accepted a Deliverable when a period of 10 Business Days has elapsed since delivery of the Deliverable to Client and Client has failed to notify MetaWeb in

writing of any failure of the Deliverable to conform to specifications.

11.3. If it is found that a Deliverable contains a Defect which prevents proper performance in accordance with the relevant specifications in the Statement of Work, Client must notify MetaWeb in writing. MetaWeb will, at its own cost, remedy such non conformities as soon as practicable after receiving Client's written notification.

12. INDEMNITY

Each party indemnifies the other party from and against any costs, loss or liability reasonably incurred or sustained arising out of a claim brought by a third party against the indemnified party alleging that the use by the indemnified party of any Intellectual Property Rights licensed or assigned to that party by the other party pursuant to this Agreement is an infringement of that third party's Intellectual Property Rights.

13. WARRANTIES

13.1. MetaWeb warrants that:

(a) it will provide the Services in a proper and competent manner using professional skill and knowledge and in conformity with all applicable laws, regulations and industry standards;

(b) the Deliverables will perform substantially in accordance with the specifications contained in the relevant Statement of Work or Proposal, and that it will correct any defects or errors in any Deliverable which prevents the Deliverable from substantially performing to specification at its cost within 90 days of the date on which the Deliverable is put into operation by Client.

13.2. The warranties contained in clause 13.1 and in this Agreement, are the only warranties made by MetaWeb. All other warranties, or conditions, whether express or implied, are excluded to the extent permitted by law. If any law implies or imposes a condition or warranty, the liability for which can be limited, then where permitted, MetaWeb limits its liability to:

(a) in the case of goods, supplying equivalent goods or paying for the cost of doing so; or

(b) in the case of services, supplying the services again or paying for the cost of doing so.

14. LIMITATION OF LIABILITY

14.1. In no event shall MetaWeb be liable to Client for loss of profits, wasted expenditure, anticipated savings, loss of goodwill, loss of data or for any indirect, consequential or special loss or damage whether or not the loss or damage was foreseeable or contemplated by MetaWeb or if MetaWeb was advised of the possibility of such loss or damage.

14.2. MetaWeb's total liability to Client for breach of contract, tort (including negligence), or for any other common law or statutory cause of action arising out of the operation of this Agreement shall be limited to the amount paid by Client to MetaWeb in respect of the Statement of Work from which the liability arose or, if not in respect of a Statement of Work, the amount paid by Client to MetaWeb under this Agreement in the year prior to the occurrence giving rise to that liability.

15. TERMINATION

15.1. Either party may terminate this Agreement or a Statement of Work with immediate effect at any time by giving notice to the other party (the defaulting party) where the defaulting party:

(a) breaches a term of this Agreement or the relevant Statement of Work and that breach is not remedied within fifteen (15) Business Days of the defaulting party receiving a notice which requests the breach be remedied; or

(b) the defaulting party becomes subject to any form of insolvency administration or is unable to pay its debts as they fall due.

15.2. In addition to any other termination rights set out in this clause, MetaWeb may terminate this Agreement or a Statement of Work with immediate effect by giving notice to Client if Client fails to pay any correctly rendered invoice pursuant to clause 7.

15.3. In the event that the Client fails to make payment to either MetaWeb or any third party finance company and is in breach under this Agreement or any third party finance agreement, the Client agrees and acknowledges that MetaWeb may withdraw the Client's right to use any of the Services and MetaWeb may hold onto any items associated with the Services (and within its possession) until such time as full payment is made.

15.4. Termination of a Statement of Work pursuant to this clause will only terminate that Statement of Work and will not affect this Agreement or any other Statement of Work.

15.5. Termination of this Agreement pursuant to this clause will terminate all Statements of Work under this Agreement.

16. CREDITS

16.1. MetaWeb shall be entitled to include on any Website or Application developed by MetaWeb a statement to the effect that the Website or Application was developed by MetaWeb, and refer to the Website or application for marketing purposes, client case studies, and publicity.

16.2. MetaWeb will not use the name of Client in publicity, advertising or similar activity without receiving the prior written consent of Client, except that Client hereby consents to the inclusion of Client's name in customer listings which may be published as part of MetaWeb's marketing efforts.

17. NO SOLICITATION

Client or its Related Bodies Corporate must not during the Term and for a period of 12 months after the expiry of this Agreement, solicit, approach, employ or engage, offer to employ or engage any person who was at any time during the Term an employee or contractor of MetaWeb or any of its Related Bodies Corporate.

18. SUB-CONTRACTING

MetaWeb may engage third parties on a sub contract or consultancy basis to assist in the provision of the Delivreables under this Agreement.

19. NO REPRESENTATIONS

Client acknowledges and confirms that it has not relied on any representation made by MetaWeb or on any descriptions, illustrations or specifications contained in any document including catalogues or publicity material produced by MetaWeb that has not been stated expressly in this Agreement.

20. ENTIRE AGREEMENT

This Agreement, the Statement of Works, and the Proposal (if any) represents the entire agreement of the parties in respect of its subject matter. All previous correspondence and negotiations in respect of it are superseded.

21. RESOLUTION OF DISPUTES

Before resorting to external dispute resolution mechanisms the parties must attempt to settle any dispute in relation to this Agreement by:

(a) notifying the other party of its reasons for wishing to seek external dispute resolution (including any claims it may have against the other party); and

(b) referring the dispute to senior management of each party who may be able to resolve the dispute

22. ASSIGNMENT AND NOVATION

22.1. Neither party may assign or novate or attempt to assign or novate this Agreement, any right or obligation under this Agreement without the other party's prior written consent, which consent shall not be unreasonably withheld or delayed.

23. RELATIONSHIP

Each party acknowledges that:

(a) nothing in this Agreement constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between the parties;

(b) it has no right to bind the other party in contract or otherwise at law.

24. SEVERABILITY

Part or all of any clause of this Agreement that is illegal or unenforceable and does not go to the essence of the Agreement will be severed from this Agreement and will not affect the continued operation of the remaining provisions of this Agreement.

25. WAIVER

25.1. Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Agreement by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Agreement.

25.2. Any waiver or consent given by any party under this Agreement will only be effective and binding on that party if it is given or confirmed in writing by that party.

26. FORCE MAJEURE

The obligations of a party (other than obligations relating to the payment of money) may be suspended if anything occurs which is outside that party's control and which prevents or delays that party from performing its obligations under this Agreement. In that case, the completion date and any other dates in any development schedule, shall be extended by the delay arising as a result of the occurrence of that thing.

27. NOTICES

Notices under this Agreement may be delivered by hand, by mail or by facsimile to the addresses specified by each party from time to time and will be deemed to have been delivered:

(a) if hand delivered, on the date of delivery;

(b) if mailed, five (5) business days after the date of posting; and

(c) if sent by facsimile, on the day the transmission is sent and confirmed by the facsimile machine.

28. GOVERNING LAW AND JURISDICTION

This Agreement is governed by and will be construed according to the laws of New South Wales.

(a) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to this Agreement.

(b) Each party irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought to an convenient forum, where that venue falls within paragraph (a) of this clause.

SECTION B: WEBSITE DEVELOPMENT

1. ENGAGEMENT

   If Client engages MetaWeb to provide Social Media Services the provisions of Section B of this Agreement will apply.

2. WEBSITE DEVELOPMENT SERVICES

   2.1 If required by Client, MetaWeb will create Website content for the hosted Websites and post that material on a Hosted Website.
   2.2 will not publish any of the content which it creates for

   Client on any Hosted Website until it has received notice in writing from a Client representative that the content has been approved by the Client.

   2.3 MetaWeb will retain copies of all of the notices which it receives pursuant to clause 1.2 together with a copy of the content to which the notice relates and will provide copies of those records to Client upon request.

3. AGREEMENT ON HOSTED WEBSITE PLAN

   3.1 Client must provide MetaWeb with clear and detailed instructions and content in relation to requests or the need for Hosted Website development which are required for the particular circumstances of Client and its users and MetaWeb must record all such requests.

   3.2 Within 30 days from initial instructions, Client and MetaWeb must agree on the plan for development for the Hosted Website (**Hosted Website Plan**), including:

   (a) the request for development works that MetaWeb will provide; and
   (b) the completion date on which the development works are to be completed by MetaWeb.

   3.3 MetaWeb must, in accordance with the Hosted Website Plan:

   (a) develop the Hosted Website;
   (b) supply the Hosted Website to Client.

4. REPORTING

   4.1 MetaWeb will consult with Client at regular agreed intervals about:

   (a) changes or additions to the Hosted Websites required by any instruction given by Client;
   (b) major developments, such as the introduction of new services for Hosted Websites (the implementation of which are the subject of separate Statement of Work); and
   (c) the progress of any Website maintenance services that have been requested by Client or carried out by MetaWeb.

SECTION C: WEBSITE HOSTING AND DOMAIN NAMES

1. ENGAGEMENT

   If Client engages MetaWeb to provide Web Hosting and Domain Name Services the provisions of Section C of this Agreement will apply.

2. OPERATIONAL MANAGEMENT

   2.1 If required by Client, MetaWeb will provide operational management of each Hosted Website's equipment and software components by pro-active management and monitoring each Hosted Website including:

   (a) performing a regular backup of each Hosted Website;
   (b) identifying and reporting any capacity issues (server and database) as soon as MetaWeb becomes aware of such issues;
   (c) monitoring, managing and reviewing security;
   (d) ensuring configuration of the Hosted Websites;
   (e) managing and controlling system access; and

   (f) investigate report and/or respond to Client on any problems identified by Client or MetaWeb in the operation of the Hosted Websites.

3. ESCALATION PATH AND CONTACT DETAILS

   MetaWeb will provide a service desk for issue escalation and service concerns to be logged. MetaWeb will provide an incident report of any escalation issues and service concerns.

4. INTERNET AUDIT SERVICE

   Client may have any Hosted Website and infrastructure associated with any Hosted Website audited by an external organisation. The audit may cover the Hosted Website and security penetration testing and a review of the preventative maintenance and recovery procedures. MetaWeb will allow Client reasonable access to its site and any infrastructure associated with the Hosted Websites for the purposes of such audit.

5. CONTENT MANAGEMENT

   MetaWeb will provide File Transfer Protocol (FTP) user access to Client and authorised contractor / vendors to update content.

6. HOSTING SERVICES

   6.1 MetaWeb will ensure the Hosted Websites are housed on servers within secured facilities.

   6.2 MetaWeb will ensure that the Hosted Websites are visible to the DNS and accessible via TCP/IP.

   6.3 MetaWeb may manage the process of registering domain names on behalf of Client as directed by Client. All domain names will be registered in the name of Client or such other name as Client directs.

   6.4 All Client website/s will be firewall protected, with intrusion detection.

   6.5 MetaWeb will, promptly following a request from Client, provide to Client such information about the Hosted Website as Client may request, and provided that MetaWeb has access to such information, in such format as Client may require.

SECTION D: SOCIAL MEDIA

1. ENGAGEMENT

   1.1 If Client engages MetaWeb to provide Social Media Services the provisions of Section D of this Agreement will apply.
   1.2 MetaWeb may be engaged by Client to promote the Client and its brand, services and/or products by creating and making available Client Content on Social Media.

   1.3 If you engage MetaWeb for the creation and use of Client Content, then you will be required to enter into a Statement of Works identifying:

   (a) The relevant social media;
   (b) Any specific requirements or conditions in respect of Client Content and how often you will provide it; and
   (c) The duration of your engagement for the provision of Client Content.

   1.4 Client will not within Client Content or otherwise create or publish any content or do anything that is unlawful, derogatory or detrimental.

   1.5 Client will ensure that Client Content complies with the applicable requirements of the Statement of Works.

2. INTELLECTUAL PROPERTY & PRIVACY

   2.1 By providing Client Content to MetaWeb, Client grants MetaWeb anirrevocable, perpetual, exclusive and royalty-free licenceto use, reproduce, reformat and publish Client Content or any part of it on any Social Media, with a right to sub-licence

the Client or its Agency to use, reproduce, reformat and publish Client Content or any part of it on any Social Media.

2.2   Client acknowledges and agrees that it will have no claim or recourse against MetaWeb for or in connection with any infringement of its Intellectual Property Rights in respect of Client Content by a third party.

2.3   Client agrees that if Client Content contains information of any person other than Clients, Client will provide MetaWeb with their written consent in respect upon request

2.4   Client acknowledges and agrees that Client Content will comply with the Privacy Act 1988 (Cth) in relation to any such personal information, as defined in that Act.

2.5   In the event of any inconsistency between this clause 2 and any other provision of this Agreement, this clause 2 will prevail.

3.   INDEMNITIES

3.1   Client Indemnifies MetaWeb from and against any loss or damage arising from or in connection with:

(a)   any claim that Client Content infringes third party's Intellectual Property Rights; and

(b)   any claim that Client Content breaches privacy or similar rights of a person whether in tort, at law or under statute.

SECTION E: SEARCH ENGINE OPTIMISATION

1.   ENGAGEMENT

If Client engages MetaWeb to provide Search Engine Optimisation Services (SEO Services) the provisions of Section E of this Agreement will apply.

2.   SEO SERVICES

2.1   MetaWeb will provide the Client with SEO Services with the frequency and reporting method specified in the Statement of Works.

2.2   MetaWeb SEO Services are aimed at increasing visibility and boosting ranking on Google.

2.3   MetaWeb cannot guarantee Client's website ranking as search engines change their ranking algorithms on a regular basis and new sites and competitor sites may be being optimised and submitted continually.

2.4   In some cases it may not be possible to improve rankings on certain keyword phrases and in such cases MetaWeb will select the closest relevant keyword phrases to optimise.

2.5   Results will be based on listings of Google only unless otherwise agreed in the Statement of Works.

3.   ACCESS

3.1   Client agrees to give MetaWeb the following information, access and authorities and that should such not be granted, MetaWeb will not be held responsible for meeting any agreed upon targets:

(a)   authority to MetaWeb to submit the Website pages being promoted to search engines and directories.

(b)   MetaWeb will have the ability to optimise the structure and content of clients' web pages. Such changes generally have a minimal visual impact. MetaWeb will work directly with Client in order to maintain the original look and feel of the Website.

(c)   Client must provide MetaWeb with log-on information (username and password) to gain FTP access to the Website. MetaWeb will maintain confidentiality of log-in information according to the Australian Privacy Principles.

(d)   Client must inform webmasters or anyone else who has access to the Website that MetaWeb is performing SEO services on the site.

(e)   Client is responsible for ensuring that the Website is always active and accessible.

4.   GUARANTEES

4.1   MetaWeb cannot be held responsible for reaching any agreed targets if the Client has:

(a)   employed the services of another SEO Company or any other related company to work on the website during the same period,

(b)   employed the services of a search engine submission company during the same period,

(c)   created any duplicate sites, duplicate content or pages, redirects or doorway pages,

(d)   requested or exchanged links with link farms or undertaken any spamming techniques which may harm the website's ranking with Google;

(e)   attempted to use any other techniques, whether allowed by Google or not, to attempt to increase the SEO ranking of the site, or

(f)   undertaken any other additional SEO or SEO related activity.

4.2   MetaWeb may make void any campaign and render all of the outstanding balance payable should it be discovered that the Client has engaged in spamming, including but not limited to, hidden links, links to link-farms, redirect or cloaking techniques or used automated website submission software or automated reciprocal link programs.

4.3   The Client agrees that the Website is not hosted on free webspace using domain forwarding (either framed or otherwise).

4.4   MetaWeb cannot guarantee SEO Services if there are errors made by third parties, or failure by the Client to maintain a current website.

5.   INTELLECTUAL PROPERTY

5.1   This Agreement does not grant the Client Intellectual Property Rights in the SEO service.

5.2   The Client agrees that the SEO service and procedure, the names and logos of MetaWeb and all related product and service names, are the sole and exclusive property of MetaWeb.

6.   RESTRICTIONS

6.1   The Client will not grant a license to any SEO software used by MetaWeb under this Agreement.

6.2   The Client will not, directly or indirectly: reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms of, or found at or through the SEO Services; or modify, translate, or create derivative works based on the SEO Services or any software; or copy, distribute, pledge, assign, or otherwise transfer or encumber rights to the SEO Services or any SEO software used by MetaWeb.

6.3   Unless you are expressly authorised by MetaWeb, Client may not display, copy, reproduce, or distribute the SEO software, any component thereof, any documentation provided in connection with the Services or the software. Violation of these restrictions may result in the termination of this Agreement.

6.4 The SEO services may only be used for lawful purposes. Transmission or solicitation of any material that violates Australian federal, state or other laws that may apply in this jurisdiction or your local area is prohibited.

SECTION F: CUSTOMISED WEB APPLICATIONS

1. ENGAGEMENT

If Client engages MetaWeb to provide Customised Web Applications the provisions of Section F of this Agreement will apply.

2. WEBSITE APPLICATION

2.1 If required by Client, MetaWeb will develop customised Applications for the Hosted Websites.

2.2 Client must provide MetaWeb with clear and detailed instructions in relation to the Applications and MetaWeb must record all such requests.

2.3 Within 30 days from initial instructions, Client and MetaWeb must agree on the plan for development of the Application (**Application Plan**), including:

(a) the request for development works that MetaWeb will provide; and
(b) the completion date on which the development works are to be completed by MetaWeb.

2.4 MetaWeb must, in accordance with the Hosted Website Plan:

(a) develop the Application; and
(b) Incorporate the Application with the Hosted Website.

SECTION G: DEFINITIONS AND INTERPRETATION

1.1. In this Agreement, unless otherwise indicated by the context:

Acceptance means the acceptance by Client of the Deliverables in the manner set out in Clause 11 of Section A;

Additional Fees means any additional fees and charges calculated in accordance with the Fees variation provisions;

Agreement means this Master Services Agreement including the Schedules, Proposals, Attachments and any Statements of Work agreed by the parties;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

Claim means any claim, demand, action or suit against Client brought by a third party that the use of the Software infringes the Intellectual Property Rights of that third party;

Client Content any content, including copy and imagery, which is created by Client referring to, showcasing or promoting a Client or a Client's brand, products or services;

Confidential Information means in relation to each party, information that:

(a) is by its nature confidential;
(b) is designated by a party as confidential; or
(c) the other party knows or ought to know is confidential;

and, without limitation of the generality of the preceding sub-paragraphs, includes:

(d) information comprised in or relating to the Intellectual Property Rights of a party;
(e) information relating to the financial status of a party;
(f) information relating to the policies, personnel or strategies of a party;
(g) information that has actual or potential commercial value to a party, including soinformation relating to a party's clients or suppliers, and the like information; and
(h) Personal Information, as that term is defined by the Australian Privacy Principles.

Client Items means those items which must be delivered by Client to MetaWeb to allow it to perform the Services which include but are not limited to:

(a) specific logos, designs and graphics and related materials to be incorporated into the Deliverables;

(b) all data, content and other material to be incorporated into the Deliverables;

(c) any other information, ideas or suggestion which are to be expressly considered by MetaWeb in creating the Deliverables;

(d) any other information reasonably required by MetaWeb from time to time to enable it to provide the Services and deliver the Deliverables;

Defect means an error or non conformity which prevents a Deliverable operating in accordance with the specifications set out in the Statement of Work;

Deliverables means the specific items specified in a Statement of Work or Proposal which must be delivered by MetaWeb to Client;

Development Services means the development services set out in Section B of this Agreement;

Fees means the fees and charges set out in the Proposal or as specified in the relevant Statement of Work;

Hosting Services means the hosting services set out in Section C;

Hosted Website means those Websites to be hosted by MetaWeb as specified in any Proposal or Statement of Works;

Intellectual Property Rights or **IP Rights**)means all present and future right, title and interest conferred by statute, common law or equity in or in relation to: copyright; trade marks, service marks, designs, inventions (including patents), circuit layouts, business and domain names, trade secrets, know how or Confidential Information, whether or not now existing and whether or not registered or registrable and includes any right to apply for the registration of such rights and includes all renewals and extensions;

Master Terms and Conditions means the terms set out in this document;

Proposal means a written work proposal issued by MetaWeb containing the scope of proposal works, technical requirements, projected costs and proposed solution;

Representatives means all persons acting on behalf of a party or for whom a party is responsible, including personnel, consultants, and permitted sub-contractors and agents;

Related Body Corporate has the same meaning as in the *Corporations A ct 2001 (Cth);*

Services means the following (whichever is applicable):

(a) the Website Development Services;
(b) the Hosting Services;
(c) Social Media and SEO Services; and
(d) Customised Web Applications,

and any other services provided by MetaWeb to Client under this Agreement;

SEO means Search Engine Optimisation and involving the process of improving the volume of traffic to a web site from search engines.

Social Media means, each online social medium on which MetaWeb is required to create Client Content as listed by Client or advised by MetaWeb;

Statement of Work or Statements of Work means the Services to be performed by MetaWeb as agreed by the parties in accordance with this Agreement;

Statement of Work Template means the template set out in Attachment A;

Statement of Work Term means any period of time agreed or set out in the Statement of Work;

Term means the period of 12 months commencing on the date of this Agreement or such other term expressly agreed between the parties in the Proposal or other document;

Website means the website located on the Internet at the domain name/s specified by the Client;

1.2.   Interpretation

In this Agreement, unless the context requires otherwise:

(a)   headings are for convenience only and do not affect interpretation;

(b)   the expression 'person' includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(c)   words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;

(d)   references to clauses, schedules and attachments are references to clauses, schedules and attachments to this Agreement, and a reference to this Agreement includes any schedule or attachment to this Agreement;

(e)   where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(f)   the word 'includes' in any form is not a word of limitation;

(g)   a reference to '$' or 'dollar' is to Australian currency (unless otherwise stated);

(h)   if any day appointed or specified by this Agreement for the payment of any money or doing of any thing falls on a day which is not a Business Day, the day so appointed or specified shall be deemed to be the next Business Day;

(i)   a party includes its successors and permitted assigns;

(j)   a document includes all amendments or supplements to that document;

(k)   An agreement on the part of two or more persons binds them jointly and severally;

(l)   No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this agreement or any part of it;

(m)   Any reference to a clause, is a reference to the clause contained within the Section in which it was referred.