

Terms and Conditions

1 APPLICATION

Application of these Terms and Conditions: These Terms and Conditions apply to all supplies of Goods and/or Services by IVE and the Customer and shall apply to the exclusion of all terms and conditions conflicting with or purporting to modify them, except where otherwise agreed in writing between IVE and the Customer.

2 QUOTES AND ORDERS

2.1 IVE may supply Quote: Where the Customer requests IVE to supply Goods and/or Services to the Customer, IVE may give the Customer a written quote or proposal specifying:

- (a) the Work required to be done in order to fulfil the Customer's instructions; and
- (b) an Estimate for that Work.

2.2 Acceptance by Customer: When IVE has given the Customer the Quote:

- (a) IVE need not commence any Work until the Quote has been accepted by the Customer;
- (b) the Customer may accept the Quote in writing (including email) and, unless and until that time, a Quote does not give rise to a binding commitment;
- (c) IVE reserves the right to correct any obvious errors in the Quote, whether technical, stenographic or otherwise.

2.3 Quote evidence of instructions: If a written Quote is accepted by the Customer:

- (a) the Quote shall be carried out and the Customer shall pay for the Work in accordance with these Terms and Conditions;
- (b) the Quote will be conclusive proof of the Customer's instructions (written and verbal) and the Order;
- (c) unless otherwise agreed in writing by IVE the Order may not be cancelled by the Customer.

2.4 Validity of Quote: A Quote:

- (a) only remains valid for 30 days from the date it is given; and
- (b) may be withdrawn by IVE at any time by notice to the Customer.

2.5 Variations and Estimates: An Estimate is based on the current cost of production and is subject to amendment before or after acceptance of the Quote to meet any cost variation between the date of the Quote and the date of execution of the Order. IVE may amend an Estimate at any time before the Order is completed to take into account any rise or fall in the cost of performing the Order. Any change to an Estimate or Order must be agreed by IVE and the Customer.

3 CHARGES

3.1 Invoice: When the Order has been completed, IVE may issue an invoice to the Customer for the amount of the Estimate or, if no Estimate was given, an amount representing IVE's charge for the Work done, and for any of the other charges specified in clause 3.2.

3.2 Charges additional to Estimate: In addition to the Estimate, IVE may charge to the Customer any of the following, except to the extent that such costs are expressly included in any Quote:

- (a) fees for any Preliminary Work performed at the Customer's request;
- (b) fees for Additional Work required to be done as a result of the Customer changing the Customer's instructions;
- (c) fees specified in clause 10.11;
- (d) fees and other charges for work required to be done urgently, including any overtime costs;
- (e) fees for handling or storing material or equipment supplied by the Customer for the purposes of the Order;
- (f) freight and/or installation costs and charges; and
- (g) other charges, fees or disbursements referred to in these Terms and Conditions and not specified in this clause.

3.3 GST and Taxes: The Estimate shall be increased by the amount of any GST and other taxes and duties which may be applicable, except:

- (a) to the extent such taxes are expressly included in the Quote; and
- (b) all out-of-pocket expenses referred to in these Terms and Conditions are GST inclusive.

4 PAYMENT

4.1 Time for payment: The Customer must, within 30 days after the date from the end of the month in which the Goods were received, pay to IVE the total amount set out in the invoice. IVE may:

- (a) alter terms of payment with effect from the date of the next Order that Customer places after it notifies the Customer of such change; and
- (b) impose a credit limit at any time, which may be altered at IVE's discretion with effect from the date IVE notifies the Customer of such alteration. Where the credit limit is exceeded then, despite anything to the contrary, IVE may with immediate effect and without further notice;
 - (i) refuse to supply Goods and/or Services to the Customer; or
 - (ii) require security in a form satisfactory to IVE; or
 - (iii) alter terms of payment to cash on delivery.

4.2 Late Payment: If the Customer does not make payment by the due date, then:

- (a) all money that the Customer owes to IVE becomes immediately payable;
- (b) IVE may charge interest at IVE's bank's then current commercial overdraft rate plus a margin of 2% per annum on amounts not paid within the time specified in clause 4.1, commencing on the day after the due date for payment and ending on the date when payment is received by IVE; and
- (c) IVE may suspend any Work in progress and/or cancel any Orders in existence (without prejudice to any other rights or remedies of IVE).

4.3 Advance and progress payments: IVE may:

- (a) issue an invoice for the amount of the Estimate before commencing the Order, if IVE has not previously done work for the Customer or otherwise considers it prudent; or
- (b) if IVE is of the view that completing the Order will take more than a month, at any time before the Order is completed, issue one or more invoices for a proportion of the amount of the Estimate (the proportion to be at IVE's discretion) or require a proportion of the Estimate to be paid in advance of any Work being done.

4.4 Suspension of Work: If the Order is suspended for more than 30 days at the request of the Customer or as a result of something for which the Customer is responsible, IVE may issue an invoice for a particular sum (to be specified by IVE) for the Work already done and for other costs incurred by IVE (including, by way of example but without limitation, storage costs).

4.5 Damages: The Customer must pay to IVE any costs, expenses or losses incurred by IVE as a result of the Customer's failure to pay to IVE on the due date all sums outstanding from the Customer to IVE (including, without limiting the generality of the obligation set out in this clause, any debt collection and legal costs).

4.6 Rebates: The Customer does not become entitled to, and IVE is not obliged to pay, any discount or rebate unless all money owing by the Customer to IVE has been paid.

5 SERVICES

5.1 Type of Service: Broadly, the services IVE supplies can be categorised as follows: Data driven communications Production and Distribution, Creative Services and Integrated Marketing.

5.2 Scope of Work: The Customer may engage IVE to provide services for one or more of the above. The Quote will set out the scope of work and services to be performed in more detail.

5.3 Objectives: To have a full appreciation of the Customer's instructions, the Customer must fully explain to IVE the objectives that the Customer has in relation to this matter and the commercial context in which the Customer have requested IVE's services. The Customer must provide IVE with all information that IVE may reasonably require in order to perform the Services.

5.4 Changes: If the Customer's objectives change during the course of a project before or during performance of the Services, the Customer must advise IVE if it wishes to add to or refine any aspect of its instructions or to discuss or clarify any aspect of the Services IVE is to perform. IVE will not materially alter the scope of the Services without the Customer's consent. In some instances, it may be difficult to specify the precise nature of the activities required to perform the Services before the commencement of the Work. If IVE considers during the provision of the Services that a material change or addition will be required, IVE will notify the Customer of that change and enter into negotiations with IVE in good faith concerning any changes to the terms of the relevant Quote.

5.5 Performance: IVE must perform the Services with reasonable skill, care and diligence expected of a properly qualified and competent consultant experienced in the provision of similar services.

6 DELIVERY

6.1 Time and place: Delivery of Goods is to be made at the place specified in the Quote. Any time stated for delivery is an estimate only. IVE is not liable for any delay in

delivery.

- 6.2 **Collection:** Where the Customer is to collect the Goods, the Customer must do so from IVE's premises upon being notified by IVE that the Goods are ready for collection.
- 6.3 **Freight costs:** If IVE agrees to deliver the Goods, the Customer shall bear all freight costs and charges associated with that delivery, which shall include (but not be limited to) all costs and expenses incurred by IVE in removing the Goods from its premises, whether by way of actual or attempted delivery to the Customer or otherwise.

- 6.4 **Rejection:** The Customer may only reject the Goods if they do not comply with the Order.
If the Customer wishes to reject or make a claim for discrepancy in respect of an Order, the Customer must notify IVE in writing with full details and supporting evidence of the alleged non-compliance:

- (a) if IVE is required to deliver the Goods to the Customer's premises - within 7 days of delivery;
(b) otherwise - within 7 days of notification that the Goods are ready for collection.

- 6.5 **Refusal:** If the Customer refuses to accept delivery of any Goods, IVE may charge the Customer for any additional costs incurred as a result, including storage and transportation costs.

7 RISK

- 7.1 **Risk:** The risk of any loss, damage or deterioration of the Goods passes to the Customer:

- (a) if IVE is required to deliver the Goods to the Customer's premises - at the time of delivery; or
(b) otherwise - at the time IVE notifies the Customer that the Goods are ready for collection.

- 7.2 **Risk on rejection:** If the Customer validly rejects the Goods in accordance with these Terms and Conditions, risk in the rejected Goods reverts to IVE:

- (a) if the Goods are at IVE's premises, at the time the Customer notifies IVE that the Goods are rejected;
(b) if the Goods are in the possession of the Customer, at the time that the Goods are returned to IVE (in the same condition in which they were delivered to the Customer) during usual business hours and IVE acknowledges receipt of them.

8 OWNERSHIP

- 8.1 **Retention of ownership:** IVE remains the legal and beneficial owner of all Goods sold by IVE to the Customer under these Terms and Conditions until all amounts due in respect of all Goods have been paid to IVE in cleared funds. Except to the extent agreed in writing by IVE:

- (a) the Customer must hold the Goods as IVE's bailee and must store the Goods separately and clearly identify them as the property of IVE. The Customer must notify IVE of all premises at which the Customer holds any Goods supplied under these Terms and Conditions;
(b) IVE may call for and recover possession of the Goods (for which purposes the Customer must allow IVE's employees or agents to enter the Customer's premises from time to time to inspect the Goods in the Customer's possession upon reasonable notice and take possession of the Goods without liability to the Customer) and the Customer must deliver the Goods to IVE if so directed by IVE.

- 8.2 **Ordinary business:** The Customer may, in the ordinary course of the Customer's business, use the Goods or sell the Goods to a third party for full consideration. However, if IVE requires, the Customer must assign to IVE the Customer's claim against the third party and must execute all documents necessary to effect that assignment, provided that the authority under this clause shall be revoked from the time that an Event of Default occurs or IVE notifies the Customer that is revoked.

- 8.3 **Repossession:** If:

- (a) the Customer fails to pay any amount (whether in part or in whole) payable in respect of any Goods by the time required for payment; or
(b) the Customer is the subject of an insolvency event such as administration, liquidation or controllership; or
(c) these Terms and Conditions are terminated, or becomes terminable at IVE's option,
then any consent by IVE, given under clause 8.2 or implied, to sell Goods owned by IVE is terminated and IVE may, without notice to the Customer, enter at any reasonable time any premises where the Goods are located (or believed by IVE to be located) and take possession of those Goods. The Customer's permission to enter the premises for that purpose is irrevocable. IVE may sell the Goods and apply the proceeds (net of any sale costs) in satisfaction of all or any part of the sums owed. In the event that any of the Goods enjoys copyright protection in favour of the Customer, the Customer hereby grants to IVE a licence to sell the Goods. IVE is not liable to the Customer in contract, tort or otherwise, for any costs, damages, expenses or losses incurred by the Customer as a result of any action taken by IVE under this clause.

- 8.4 **Insurance:** Until property in the Goods passes to the Customer, the Customer shall keep the Goods insured in the name of IVE and the Customer for their respective rights and interests and will produce to IVE, upon demand, evidence of such insurance.

If the Customer fails to so insure the Goods, IVE may do so and the cost of such insurance shall be payable by the Customer to IVE upon demand. The Customer must notify IVE of all insurance claims made by the Customer in respect of the Goods. The Customer must keep the proceeds of sale or insurance in a separate bank account on trust for IVE.

- 8.5 **General lien:** IVE will, in respect of all sums owed by the Customer to IVE, have a general lien on all property of the Customer in IVE's possession and may, after 14 days' notice to the Customer, sell that property and apply the proceeds (net of any sale costs) in satisfaction of all or any part of the sums owed. If any of the Customer's property held by IVE enjoys copyright protection in favour of the Customer, the Customer hereby grants to IVE a licence to exercise the rights conferred on IVE under this clause.

- 8.6 **Costs:** The Customer must reimburse IVE all costs incurred by IVE in exercising IVE's rights under this clause.

9 PPS LAW

- 9.1 **Application:** This clause applies to the extent that any agreement incorporating these Terms and Conditions provides for or contains a 'security interest' for the purposes of the *Personal Property Securities Act 2009* (Cth) (PPS Law) (or part of it).

- 9.2 **PMSI:** The security interest granted to IVE is a 'purchase money security interest' (PMSI) to the extent that it can be under section 14 of the PPS Law.

- 9.3 **Collateral:** The Customer agrees that:

- (a) all collateral which is at any time subject to IVE's security interest secures its own purchase price; and
(b) in addition, to the extent possible under PPS Law, all collateral which is at any time subject to IVE's security interest secures as a PMSI the purchase price of all collateral supplied to the Customer.

- 9.4 **No limit:** This clause 9 does not limit what other amounts are secured under these Terms and Conditions.

- 9.5 **Order of payments:** The parties agree that payments will be applied in the following order:

- (a) to obligations that are not secured, in the order in which those obligations were incurred;
(b) to obligations that are secured, but not by PMSIs, in the order in which those obligations were incurred;
(c) to obligations that are secured by PMSIs, in the order in which those obligations were incurred.

- 9.6 **PMSI:** IVE may register its security interest as a PMSI. The Customer must do anything (such as obtaining consents and signing documents) which IVE requires for the purposes of:

- (a) ensuring that IVE's security interest is enforceable, perfected and otherwise effective under the PPS Law;
(b) enabling IVE to gain first priority (or any other priority agreed to by IVE in writing) for IVE's security interest; and
(c) enabling IVE to exercise rights in connection with the security interest,
and to assure performance of the Customer's obligations, the Customer hereby gives IVE an irrevocable power of attorney to do anything IVE considers the Customer should do under these Terms and Conditions.

- 9.7 **Exercise of rights:** The rights of IVE under these Terms and Conditions are in addition to and not in substitution for IVE's rights under other law (including the PPS Law) and IVE may choose whether to exercise rights under these Terms and Conditions, and/or under such other law, as IVE see fit.

- 9.8 **Provisions not applicable:** The following provisions of the PPS Law do not apply and, for the purposes of section 115 of the PPS Law are 'contracted out' of these Terms and Conditions in respect of Goods to the extent that such contracting out is not prohibited by PPS Law:

- (a) section 95 (notice of removal of accession to the extent it requires IVE to give the Customer a notice), section 96 (retention of accession), and section 125 (obligations to dispose of or retain collateral);
(b) section 130 (notice of disposal to the extent it requires IVE to give a notice to the Customer);
(c) section 132(3)(d) (contents of statement of account after disposal);
(d) section 132(4) (statement of account if no disposal);
(e) section 135 (notice of retention);
(f) section 142 (redemption of collateral); and
(g) section 143 (re-instatement of security agreement).

- 9.9 **Right to seize, possess and dispose:** The following provisions of the PPS Law:

- (a) section 123 (seizing collateral);
- (b) section 126 (apparent possession);
- (c) section 128 (secured party may dispose of collateral);
- (d) section 129 (disposal by purchase); and
- (e) section 134(1) (retention of collateral),

confer rights on IVE. The Customer agrees that in addition to those rights, IVE will, if there is default by the Customer, have the right to seize, purchase, take possession or apparent possession, retain, deal with or dispose of any Goods, not only under those sections but also, as additional and independent rights, under these Terms and Conditions and the Customer agrees that IVE may do so in any manner IVE sees fit including (in respect of dealing and disposal) by private or public sale, lease or licence.

- 9.10 **Waiver:** The Customer waives its rights to receive a verification statement in relation to registration events in respect of commercial property under section 157 of the PPS Law.
- 9.11 **Non disclosure:** Solely for the purpose of allowing IVE the benefit of section 275(6) of the PPS Law, IVE and the Customer agree that neither of them must disclose information of the kind that can be requested under section 275(l) of the PPS Law.

10 PRINTED GOODS

10.1 **Application of this Clause:** This clause 10 applies where the Customer places an Order for Goods which are printed materials.

10.2 **Periodicals:** If an Order relates to more than one issue of a periodical:

- (a) each issue will, for the purposes of these Terms and Conditions, be considered to be one Order;
- (b) a party may terminate a contract for periodicals to which these Terms and Conditions apply where:
 - (i) in the case of periodicals published weekly or more frequently, that party has given 4 weeks' notice of that party's intention to terminate the contract;
 - (ii) in the case of periodicals published fortnightly or more frequently (but less frequently than weekly), that party has given 8 weeks' notice of that party's intention to terminate the contract;
 - (iii) in the case of periodicals published less frequently than fortnightly, that party has given 13 weeks' notice of that party's intention to terminate the contract.

10.3 **Under / Over-Supplies:** The Customer acknowledges that while IVE will make every endeavour to produce the exact number of items in the Order, owing to human and/or machine/computer error the number of items actually produced may be up to 5% over or under the number specified in the Order. Where such a discrepancy occurs, IVE will adjust the amount charged to the Customer at a pro-rata rate to reflect the actual number of items produced.

10.4 **Alterations to style etc:** If, before the Quote is prepared, the Customer does not give IVE specific instructions in relation to style, type or layout:

- (a) IVE may use any style, type and layout which, in IVE's opinion, is appropriate; and
- (b) IVE may charge an additional amount for any additional work required to be done (including the production of additional proofs) as a result of the Customer subsequently altering the style, type or layout used by IVE.

10.5 **Overset:** The Customer must pay for overset matter (being matter produced on the Customer's instructions but not used in a publication for which it was intended). The Customer may instruct IVE to retain overset matter for future issues of the publication or to discard the overset matter.

10.6 **Proofs:** If IVE submits to the Customer a proof of the Goods IVE will not be responsible for any errors in the Goods which appeared in the proof and which were not corrected by the Customer before the Order was completed. There is no guarantee that production prints exactly match colour proofs because of variations in proof preparations methods and substrates. However, IVE will use all reasonable endeavours to provide a commercially acceptable finished product.

10.7 **Ancillary materials:** Unless IVE and Customer agree otherwise in writing, drawings, sketches, paintings, photographs, designs, typesetting, dummies, models, negatives, positives, blocks, engravings, stencils, dies, plates or cylinders, electros, stereos, disks, tapes, compact discs or any other media and other material produced by IVE in the course of or in preparation for performing the Order (whether or not in fact used for the purposes of performing the Order) are the property of IVE.

10.8 **Illegal matter:** IVE is not obliged to print any illegal or libelous matter and the Customer agrees to indemnify IVE against any claim relating to or arising from the printing of such matter.

10.9 **Electronic/magnetic media:** All discs, tapes, compact discs or other media (other than media supplied by the Customer) used by IVE to store data for the purposes of completing the Order are the property of IVE. The Customer cannot require IVE to supply to the Customer any data so stored, but in the event that IVE agrees to do so, IVE may charge for supplying such data to the Customer.

10.10 **Storage of electronic data:** IVE will not be responsible for storing any data on discs, tapes, compact discs or other media when the Order has been completed. If IVE agrees to store such data, IVE may charge for doing so.

10.11 **Charges additional to Estimate:** In addition to the Estimate, IVE may charge to the Customer any of the following, except to the extent that such costs are expressly included in any Quote:

- (a) fees for having to work off poor copy;
- (b) fees for additional proofs required;
- (c) fees for work which involves tables or foreign language and which was not notified to IVE before the Quote was prepared;
- (d) fees for additional work required to be done as a result of author's corrections, including repagination or reformatting;
- (e) fees for changing or correcting, in order to ensure that the Goods are properly produced, any plates, film, bromides, artwork or any document including computer files, or any other materials which are unsuitable or substandard (including any supplied in accordance with clause 13, supplied for the purposes of the Order by the Customer);

11 LIABILITY

11.1 **Non-excludable Rights:** The parties acknowledge that, under applicable State and Commonwealth law, certain clauses, conditions, guarantees and warranties may be implied in these Terms and Conditions and there are rights and remedies conferred on the Customer in relation to the provision of the Goods or of Services which cannot be excluded, restricted or modified by agreement ("Non-excludable Rights").

11.2 **Disclaimer of Liability:** Except for Non-excludable Rights, IVE accepts no liability for:

- (a) any claim by the Customer or any other person, including without limitation, any claim relating to or arising from all clauses, conditions, guarantees and warranties expressed or implied, and all rights and remedies conferred on the Customer, by statute, the common law, equity, trade, custom or usage or otherwise; and
- (b) any representations, warranties, conditions, guarantees or agreement made by any agent or representative which are not expressly confirmed by IVE in writing; and the liability of IVE for any such matters is hereby excluded.

11.3 **Defective Goods/Services:** Where (and to the extent) permitted by law, IVE is able to limit the remedy of the Customer for a breach of a Non-excludable Right, then IVE's liability for breach of the Non-excludable Right is limited to, at IVE's election:

- (a) in the case of Goods, the repair or replacement of the Goods or the supply of equivalent Goods (or the payment of the cost of doing so); and
- (b) in the case of Services, the supplying of the Services again (or the payment of the cost of doing so).

11.4 **Maximum Liability:** Subject to IVE's obligations under the Non-excludable Rights and clause 11.5, IVE's maximum aggregate liability to the Customer in respect of any one claim or series of connected claims under this document or in connection with its subject matter, whether arising in or for breach of contract, negligence or other tort, breach of statutory duty, or under an indemnity or otherwise is limited to an amount equal to the last tax invoice issued by IVE to, and paid by, the Customer.

11.5 **Indirect losses:** Notwithstanding any other provision of these Terms and Conditions, IVE is in no circumstance (whatever the cause) liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for:

- (a) any increased costs or expenses;
- (b) any loss of profit, revenue, business, contracts or anticipated savings;
- (c) any loss or expense resulting from a claim by a third party; or
- (d) any special, indirect or consequential injury loss, damage or expense whatsoever and howsoever arising.

11.6 **Force Majeure:** IVE will have no liability to the Customer in relation to any loss, damage or expense caused by IVE's failure to complete the Order, to perform the Services or to deliver the Goods as a result of act of God, fire, flood, tempest, earthquake, riot, civil disturbance, industrial dispute, theft, crime, strike, lockout, work stoppage or other labour hindrance, breakdown, act of war (whether declared or not), sabotage, insurrection, epidemic, national emergency (whether in fact or law), requirements of restriction of, or failure to act by, any government, local body or judicial entity, the inability of IVE's normal suppliers to supply necessary materials or any other matter beyond IVE's control.

11.7 **Electronic data:** Without limiting the generality of the foregoing clauses, IVE will not be liable to the Customer for loss, however caused, of any data stored on disks, tapes, compact discs or other media supplied by the Customer to IVE.

12 OUTSIDE WORK

- 12.1 **Liability:** If IVE has to obtain goods (including typefaces, bromides, film, plates, ornaments or artwork) and/or services not normally stocked or supplied by IVE from a third party in order to carry out the Customer's instructions:
- IVE will not be liable for any breach of these Terms and Conditions if that breach is a result of or is connected with the supply by the third party of the goods and/or services;
 - IVE acquires the goods and/or services as agent for the Customer and not as principal and will have no liability to the Customer in relation to the supply of those goods and/or services. Any claim by the Customer in relation to the supply of those goods and/or services must be made directly against the third party;
 - the Customer must pay for such goods and/or services; and
 - property in any goods obtained from a third party and incorporated into the Goods passes to IVE at the time of incorporation.
- 13 **CUSTOMER'S PROPERTY**
- 13.1 **Material supplied by Customer:** If IVE and the Customer agree that the Customer is responsible for supplying materials or equipment for the purposes of the Order:
- the Customer must supply sufficient quantities of materials to allow for spoilage, such quantity to be specified by IVE;
 - IVE will not normally count or check the materials and if requested by the Customer to do so, may charge for counting or checking;
 - IVE will not be responsible for any defects in the Goods which are caused by defects in or the unsuitability of materials or equipment supplied by the Customer; and
 - property in any materials supplied by the Customer and incorporated into the Goods passes to IVE at the time of incorporation.
- 13.2 **Property left with IVE:** If the Customer leaves property in IVE's possession without specific instructions as to what is to be done with it, IVE may, six months after gaining possession of the property, dispose of or sell the property and retain any proceeds of sale as compensation for holding and handling the property.
- 13.3 **Responsibility to insure:** IVE has no obligation to insure any property of the Customer in IVE's possession. The Customer must pay the cost of any insurance arranged by IVE at the request of the Customer.
- 13.4 **Customer's property:** IVE will hold any property of the Customer at the Customer's risk.
- 14 **INTELLECTUAL PROPERTY AND OWNERSHIP**
- 14.1 **Ancillary materials:** Unless IVE and Customer agree otherwise in writing, drawings, sketches, paintings, photographs, designs, typesetting, dummies, models, negatives, positives, blocks, engravings, stencils, dies, plates or cylinders, electros, stereos, disks, tapes, compact discs or any other media and other material produced by IVE in the course of or in preparation for performing the Order (whether or not in fact used for the purposes of performing the Order) are the property of IVE.
- 14.2 **IP & copyright:** All intellectual property rights and copyright associated with the Services, including the copyright in all artistic and literary works authored by IVE, will remain vested in and the property of IVE. IVE may grant a limited license to Customer to use the works authored by IVE and the terms of that license will be set out in the Quote or other document signed by the parties. IVE will not accept any liability whatsoever for any use of materials outside the scope of the license granted. The exercise of such license is conditional upon IVE having received all monies due to IVE under these Terms and Conditions.
- 14.3 **Warranty:** The Customer:
- warrants that the Customer has copyright or a licence to authorise IVE to reproduce all artistic or literary works supplied by the Customer to IVE for the purposes of the Order and the Customer hereby expressly authorises IVE to reproduce all and any of such works for those purposes; and
 - must indemnify IVE against all liability, losses or expenses incurred by IVE in relation to or in any way directly or indirectly connected with any breach of copyright or of any rights in relation to copyright.
- 14.4 **Intellectual Property Rights:** The Customer warrants that the use by IVE of any designs or instructions supplied by the Customer will not infringe any intellectual property of any other person and the Customer indemnifies IVE against any claim relating to or arising from the infringement of any intellectual property of any other person.
- 14.5 **Ideas:** The Customer must keep confidential and not use any ideas communicated by IVE to the Customer without IVE's prior written consent.
- 15 **PRIVACY AND PERSONAL INFORMATION**
- 15.1 **Compliance:** The Printer and the Customer each agree to comply with the *Privacy Act 1988 (Cth)* and any other applicable laws and codes dealing with privacy in relation to the collection, use, storage and disclosure of personal information.
- 16 **GENERAL**
- 16.1 **Severability:** Any provision in these Terms and Conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down, then it is capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of these Terms and Conditions or affecting the validity or enforceability of that provision in any other jurisdiction.
- 16.2 **Governing law and jurisdiction:** These Terms and Conditions are governed by the law in force in the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with these Terms and Conditions.
- 16.3 **Waiver:** If IVE exercises or fails to exercise any right or remedy available to it this shall not prejudice the rights of IVE in exercising that or any other right or remedy. Waiver of any term of this contract by IVE must be specified in writing and signed by an authorised officer of IVE.
- 16.4 **Use of information:** The Customer agrees that any information given to IVE by the Customer may be disclosed to a referee or a credit agency in order to establish information relating to the Customer's credit worthiness.
- 16.5 **Termination:** Upon the occurrence of an Event of Default, either party may terminate a contract or all or any contracts by notice in writing to the other party and the Customer must pay all outstanding fees to IVE.
- 16.6 **Amendment:** IVE may amend these Terms and Conditions by giving the Customer notice in writing. The amendment takes effect from and in respect of any Order made by Customer after the date of such notice.
- 17 **INTERPRETATION**
- 17.1 In these Terms and Conditions:
- "Additional Work" includes all Work undertaken by IVE as a consequence of the Customer's variation, alteration or modification of its instructions in relation to the Order.
- "Business Day" means a day on which banks are open for general banking business in the State of New South Wales, Australia.
- "Customer" means the customer for whom the Work is being carried out and where the Customer is more than one person or entity, liability of the Customer shall be joint and several.
- "Estimate" means an estimate of cost for the Work contained in any Quote, as varied pursuant to these Terms and Conditions.
- "Event of Default" means:
- in respect of a Customer, means an event where the Customer:
 - fails to comply with the terms of any contract between the Customer and IVE including these Terms and Conditions; or
 - being an individual is declared bankrupt or becomes of unsound mind; or
 - enters into any composition or arrangement with its creditors or goes into liquidation (voluntarily or otherwise) or has a receiver or liquidator or trustee or statutory manager or administrator or inspector or similar official under any companies or securities or other legislation appointed over all or part of its assets, or any other such similar event; or
 - undergoes a change in its control or ownership, or has a conflict with IVE's interests or the interest of any party related to it which IVE considers sufficiently inappropriate; or
 - ceases or threatens to cease to carry on all, or substantially all of its business or operations; or
 - becomes or is declared insolvent or is unable or deemed to be unable to pay its debts, or stops or threatens to stop payments generally.
 - in respect of IVE, means an event where IVE:
 - fails to remedy a breach of the terms of any contract between the Customer and IVE which includes these Terms and Conditions within 30 days of receiving written notice from the Customer; or
 - enters into any composition or arrangement with its creditors or goes into liquidation (voluntarily or otherwise) or has a receiver or liquidator or trustee or statutory manager or administrator or inspector or similar official under any companies or securities or other legislation appointed over all or part of its assets, or any other such similar event; or

(iii) becomes or is declared insolvent or is unable or deemed to be unable to pay its debts, or stops or threatens to stop payments generally.
"Goods" means the printed materials, or any other goods which IVE agrees to supply to the Customer on the terms of these Terms and Conditions.

"Order" means an order placed by the Customer and accepted by IVE in accordance with these Terms and Conditions.

"IVE" means IVE Group Australia Pty Limited, ABN 58 000 205 210.

"Preliminary Work" means all and any work performed by IVE at the Customer's express or implied request, the performance of which work was necessary to enable the Order to be commenced and which work was not within the reasonable contemplation of IVE at the time when IVE supplied the Estimate.

"Quote" means the quote described in clause 2.1.

"Services" means the services which IVE agrees to supply to the Customer on the terms of these Terms and Conditions.

"Work" means the work that is the subject of the Order, which may include the production of the Goods and/or the performance of the Services.

17.2 **General:** In these Terms and Conditions, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a clause is a reference to a clause in these Terms and Conditions;
- (c) a reference to a party to these Terms and Conditions or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns;
- (d) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (e) a reference to a period of time (including, without limitation. A year, a quarter, a month and a day) is to a calendar period;
- (f) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute.

17.3 **Headings:** In these Terms and Conditions, headings are for convenient reference only and do not affect interpretation.

17.4 **Business Day:** If the day on which any act, matter or thing is to be done under these Terms and Conditions is not a Business Day, that act, matter or thing: