



TERMS AND CONDITIONS

1. Definitions

In these Terms and Conditions:

Agreement means the agreement formed as contemplated by clause 2 below between Suddenly and the Client comprising these Terms and Conditions of Service and the Proposal.

Client means the client set out in the Scope of Work.

Client Materials means any content or materials (if any) of any nature provided by the Client to Suddenly for incorporation in the Materials including those set out in the Proposal.

Deliverables means the deliverables (if any) set out in the Scope of Work

Expenses means the investment and expenses set out in the Scope of Work.

Fee means the investment fee set out in the Scope of Work.

Intellectual Property Rights means all industrial and intellectual property rights of whatever nature throughout the world conferred under statute, common law or equity, whether existing now or at any time in the future, and includes rights in respect of or in connection with copyright, inventions (including patents), formulae, databases, business processes and methods, trademarks, service marks, business names, trade names, domain names, designs, confidential information, trade secrets and know-how and similar industrial and intellectual property rights, whether or not registered or registrable, and includes the right to apply for or renew the registration of such rights.

Materials means all products and proceeds of the Services including the Deliverables.

Payment Schedule means the payment schedule set out in the Scope of Work.

Proposal means the Scope of Work for the provision of services by Suddenly to the Client to which these Terms and Conditions of Service are attached.



Services means the services set out in the Scope of Work.

Special Conditions means the special conditions (if any) set out in the Scope of Work.

Suddenly means Nationwide News Pty Ltd ABN 98 008 438 828 trading as Suddenly Content Agency.

Suddenly IP means any content or materials (if any) of any nature created by or on behalf of Suddenly that are not specifically related to the Services.

Suddenly Materials means any content or materials (if any) of any nature created by or on behalf of Suddenly specifically for the purpose of such content or materials forming part of the Materials but excludes Suddenly IP.

Third Party Materials means any content or materials (if any) of any nature licensed by Suddenly from a third party and included in the Materials.

2. Formation of Agreement

- (a) The Scope of Work forms an offer by Suddenly to provide the Services on the terms and conditions of the Agreement.
- (b) If the Client delivers a copy of the Scope of Work signed by the Client to Suddenly within 30 days of the date of the Proposal, a binding contract on the terms and conditions of the Agreement is formed between the Client and Suddenly.
- (c) To the extent of any inconsistency between these Terms and Conditions and the Scope of Work, the following precedence is to be given in relation to interpretation:
 - (i) first, the Special Conditions;
 - (ii) second, Terms and Conditions; and
 - (iii) third, the Proposal.



3. Services

- (a) Suddenly will provide the Services to the Client in accordance with the terms of the Scope of Work.
- (b) Suddenly use reasonable efforts to provide the Services to the Client in accordance with the timeline agreed by the parties.

4. Fees, Expenses and payment

- (a) The Client must pay to Suddenly the Fee in accordance with the Payment Schedule.
- (b) The Client must reimburse Suddenly the Expenses in accordance with the reimbursement procedure set out in the Scope of Work.
- (c) Any payments made in accordance with the Agreement are exclusive of GST and any and all applicable taxes, charges and levies.
- (d) The Client must make all payments under the Agreement in full without deduction, counter-claim or set-off.

5. Intellectual Property

- (a) Subject to Suddenly receiving payment of the Fee in full as contemplated by clause 3 above, Suddenly will assign all Intellectual Property Rights in and to the Suddenly Materials to the Client.
- (b) Except as expressly agreed by Suddenly in writing, Suddenly licenses the Third Party Materials and Suddenly IP to the Client for the sole purpose of using the Third Party Materials and Suddenly IP as incorporated in the Materials and as contemplated by the Proposal.
- (c) The Client grants Suddenly the right to use the Client Materials for the purposes of providing the Services and creating the Materials as contemplated by the Scope of Work.



- (d) The Client represents and warrants to Suddenly that it has the right to grant the rights granted under subparagraph (c) above and that Suddenly's use of the Client Materials will not infringe any third party's Intellectual Property Rights or other rights.
- (e) The Client indemnifies Suddenly against all losses, liabilities, damages and claims, and all related costs and expenses (including any and all reasonable legal fees and reasonable costs of investigation, litigation, settlement, judgment, appeal, interest and penalties) arising from a breach of the warranty given by the Client under sub-clause (d) above.

6. Liability

- (a) To the maximum extent permitted by law:
 - (i) except as expressly set out in the Scope of Work:
 - (A) Suddenly makes no representations or warranties to the Client;
 - (B) Suddenly hereby excludes all representations, warranties, terms and conditions whether express or implied (and including without limitation, those implied by statute, custom, law or otherwise);
 - (ii) Suddenly's cumulative liability to the Client for all claims made by the Client under or in relation to the Agreement will not exceed in aggregate the amount actually paid by the Client to Suddenly in respect of the Proposal;
 - (iii) Suddenly will not be liable to the Client in respect of any claim for any loss of profit, data, goodwill or business, for interruption to business, for any failure to realise anticipated savings or for any consequential, indirect, special punitive or incidental damages.
- (b) Certain legislation may imply warranties or conditions, impose obligations or give statutory guarantees (together, "Statutory Provisions") which cannot be



excluded, restricted or modified except to a limited extent. The Agreement must be read subject to the Statutory Provisions. If the Statutory Provisions apply, notwithstanding any other provision of the Agreement, to the extent to which Suddenly is entitled to do so, Suddenly limits its liability in respect of any claim to:

- (i) in the case of goods, at Suddenly's option:
 - (A) the replacement of the goods or the supply of equivalent goods;
 - (B) the repair of the goods;
 - (C) the payment of the cost of replacing the goods or acquiring equivalent goods; or
 - (D) the payment of having the goods repaired; and
- (ii) in the case of services, at Suddenly's option:
 - (A) the supply of the Services again; or
 - (B) the payment of the cost of having the Services supplied again.

7. Suspension of Services and Termination

- (a) Without limiting any of Suddenly's other rights, Suddenly may suspend the provision of some or all of the Services if the Client does not make payment as contemplated by clause 3 above.
- (b) Suddenly will have not liability to the Client whatsoever in the event of a suspension of the Services as contemplated by sub-clause (a) above.
- (c) Suddenly may terminate the Agreement with immediate effect by notice in writing to Client upon the occurrence of any of the following:
 - (i) Suddenly becomes aware that the Client Materials infringe or may infringe a third party's Intellectual Property Rights or other rights;



- (ii) the Client commits a breach of the Agreement that is remediable and fails to remedy the breach within 7 days of written notice from Suddenly requiring the Client to do so;
 - (iii) the Client commits a breach of the Agreement that is incapable of remedy; or
 - (iv) the Client undergoes any form of insolvency event.
- (d) If the Agreement is terminated for any reason:
- (i) all payments to be made by the Client to Suddenly become due and payable to Suddenly on the date of termination; and
 - (ii) clauses 3, 4, 5, 7, 8 and this clause 6 survive termination or expiry of the Agreement.

8. Confidentiality

The terms of the Agreement are confidential and must not be disclosed by the Client to any third party other than the Client's professional advisers, or as required by law, without the prior written consent of Suddenly.

9. General

- (a) The Client acknowledges that Suddenly may subcontract the provision of the Services.
- (b) A party may only assign the Agreement or a right under the Agreement with the prior written consent of the other party.
- (c) The Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.
- (d) If the whole or any part of a provision of the Agreement is invalid or unenforceable in a jurisdiction it must, if possible, be read down for the purposes of that jurisdiction so as to be valid and enforceable. If however,



the whole or any part of a provision of the Agreement is not capable of being read down, it is severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of the Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

- (e) A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- (f) Except where the Agreement expressly states otherwise, the Agreement does not create a relationship of employment, trust, agency or partnership between the parties.
- (g) The Agreement will be governed by and construed in accordance with the law for the time being in force in South Australia and the parties, by entering into the Agreement, are deemed to have submitted to the non-exclusive jurisdiction of the courts of that State.