

1. DEFINITIONS

1.1 “We”, “us” and “our” mean The Zoo.

1.2 “Client” means the person(s) that are requesting services, goods or equipment from The Zoo, it is understood that these person(s) are authorised to make such instructions on behalf of the Client.

1.3 “You” and “your” mean the Client requesting goods, service(s) or equipment.

1.4 “Service” and “Services” include any goods, products, equipment and associated services requested by you from time to time or supplied as a matter of the course of business by us, this includes but is not limited to the term issuing of work.

1.5 “Time is of the essence” means you are responsible to complete all obligations set out by quote, invoice or information deadlines outlined in documentation, these timeframes are specific to the date set out on the quote, invoice or other documentation as required to perform the duties requested by you.

2. APPOINTMENT

2.1 You appoint us to undertake the action requested by you, and to provide the Services in accordance with these terms and conditions, and we accept the appointment.

3. QUOTING AND PRICING

3.1 The price for the services will be as quoted by us in writing to you. If we have not provided a written quote, our standard charges will apply.

3.2 All prices are exclusive of GST, freight and handling (if applicable). You must pay us the GST in addition to the quoted amount or as invoices supplied by us indicate.

3.3 We may withdraw a quote for the provision of services at any time before it is accepted by you, in addition should a period of 14 days expire from the initial date of the quote a new quote for services will be required.

3.4 The payment of a non-refundable deposit may be required, this being at our sole discretion.

3.5 Any variations to the initial quote for services will become an additional cost to the initial quote, any additional cost to the initial quote will be invoiced and is payable by you as is set out in Section 5 of this document should the service be authorised

4. OBLIGATIONS

4.1 We will:

4.1.1 Provide the services in a timely and efficient manner; and/or

4.1.2 Not be liable for any delay or non-performance in providing services if the delay or non-performance is attributable, either directly or indirectly, to circumstances beyond the control of us.

4.1.3 You agree you will pay all amounts due and payable to us under the terms set out in Section 5 of this document.

4.1.4 In each and every respect, time shall be of the essence in the performance of a party's obligations under these terms of trade.

5. PAYMENT

5.1 Payment must be received by us on the 20th day of the month following our invoice, unless we have requested payment earlier than that date, this will be indicated on our invoice.

5.2 We reserve the right to charge you a surcharge for payments made by credit card, the rate will not exceed 4% of the purchase price, unless payment is made by American Express.

5.3 All amounts outstanding after the due date will be subject to a late payment interest charge of up to 2.5% per month, compounding. We may also recover from you all legal and debt collection costs, including but not limited to legal costs on a solicitor/client basis, incurred by us in enforcing or attempting to enforce our rights under these terms of trade.

5.4 The invoice provided by us is understood to be the first demand for payment, we reserve the right to forward your details onto a Debt Collection Agency without further notice should the invoice remain unpaid past its due date.

5.5 Unless otherwise stated on the invoice all prices exclude GST, GST is payable in all cases and cannot be offset against any other item or invoice. You must pay any other taxes due under the service supplied.

6. RECORDS MANAGEMENT

6.1 We will make reasonable efforts to store your file for a period of up to 10 years after completion of the services completed (“the Hold Period”). After the Hold Period, your file will be destroyed, unless you instruct otherwise in writing.

6.2 If you wish to access your file during the Hold Period, we reserve the right to charge a retrieval fee and any reasonable photocopying or administration charges.

7. CREDIT

7.1 The Customer authorises the Contractor to carry out any credit checks with third parties.

7.2 An account is deemed to be an account application under a Credit Facility unless payment is made in advance for the entire quote prior to the service beginning, or an arrangement is made for services to be paid for as a Cash on Delivery basis.

7.3 All information obtained during the application for Credit, or Account Application will be retained and used only for the purpose as set out in the principles of the Privacy Act 1993 and any amendments to this Act.

7.4 Failure to adhere to Section 5 of this document may result in the detail provided in the Application for Credit or Account Application being provided to one or more Credit Reporting Agency(s) without delay.

7.5 We may impose credit limits which may be varied from time to time. If you exceed the credit limit, then the services may be withheld until your account is back within the credit limit.

8. ACCEPTANCE OF TERMS AND CONDITIONS OF TRADE

8.1 That in issuing any instruction to us you agree that these terms and conditions of trade have been read, understood and you agree to abide by these terms and conditions of trade.

9. CONSUMER GUARANTEES ACT

9.1 You acknowledge that if you acquire the service for a business purpose, then the statutory guarantees and implied terms, covenants and conditions contained in the Consumer Guarantees Act 1993 are excluded.

10. OWNERSHIP AND RISK

10.1 In relation to the service that we perform for you, you will have IP ownership of the product of that service in its tangible form including any correspondence, reports and any other documents prepared for your use. You are entitled to receive any such papers provided you have discharged all outstanding indebtedness to us.

10.2 We retain ownership of all working papers and the copyright and all other intellectual property rights in the work that we do for you. We are entitled to use, analyse, and develop the knowledge, experience and skills of general application gained through working with you.

11. COPYRIGHT ACT 1994

11.1 The Service provided to you by us may not be reproduced or copied in any form whatsoever without our prior written consent. The Service is protected by copyright, all rights reserved.

11.2 Nothing in clause 11.1 above shall be deemed to prevent you from retaining a printout of any report that you may have obtained from us or its electronic on-line information system (if any) for your own internal use.
12. CONFIDENTIALITY

12.1 Unless with prior written consent of the other party it is agreed there will be no use or disclosure of information pertaining to the service supplied by us or requested by you to any third party to this agreement other than that set out in 12.2 of this document.

12.2 The parties agree that disclosure of information is acceptable in the ability to undertake the service requested or to enable the ability to perform duties under the terms and conditions of trade.

12.3 If a breach of 12.1 occurs then we may terminate this agreement without further notice, notwithstanding the termination as a result of a breach to 12.1, all other obligations will still remain enforceable.

13. WARRANTIES AND TOTAL EXCLUSION OF LIABILITY

13.1 Except as required by law, we give no express warranty in relation to any services supplied to you. You acknowledge that it has not relied on any representation or warranty made on behalf of us.

13.2 Certain legislation may imply conditions and warranties into these terms of trade. To the extent that such conditions and warranties may lawfully be excluded, all such conditions and warranties are expressly excluded. Including but not limited to Section 9 of this document.

13.3 Notwithstanding any other clause in these terms of trade, under no circumstances shall we be responsible to you for any injurious act or default of us, nor, in any event, shall we be held responsible for any loss, injury or damage suffered by you.

13.4 You confirm that by accepting these terms and conditions of trade that you indemnify us of any loss, expense, or any combination of both; including but not limited to a loss of profit should we breach any of these terms and conditions.

13.5 You indemnify us of any liability as a result of the service supplied to you, this is not limited to any defect in goods supplied by you or from us to you or from or any related loss incurred by you as a result of the supply of these services by us.

13.6 The application of a credit, refund or any similar transaction is not an admission of error on behalf of us and is for the purpose of good will.

13.7 All agents, employees and other companies or individuals engaged to complete the service requested, including but not limited to our staff are indemnified by you for any action other than that described in New Zealand Legislation relating to the services supplied.

14. TERMINATION

14.1 You may give notice to us at any time that you no longer wish to receive goods, services from us. If this occurs, you must pay our fees for services completed or partially completed as if it was completed, and any other charges incurred, up until the date of termination.

14.2 Without prejudice to any of our other remedies, if any amount payable by you to us is overdue or you become insolvent, commit an act of bankruptcy, enter into or are likely to enter in any arrangement with its creditors or in the case of a Contractor does any act that would render it liable to be liquidated, or if a resolution is passed or proceedings commenced for the liquidation or voluntary administration of you or if a receiver is appointed in respect of all or part of the Customer's assets, then:

14.2.1 We may cancel any outstanding order or arrangement with you; and/or

14.2.2 Any moneys payable by you to us whether due for payment or not will become immediately due and payable.

14.2.3 Any services supplied remain our property in its entirety until fully paid for.

15. NOTICES

15.1 All notices or other communications to be given under these terms of trade will be given at the recipient's last known place of address or registered office.

16. GENERAL

16.1 **No Waiver** - No waiver of any breach of, or failure to enforce, any provision of these terms of trade at any time by any party in any way affects, limits or waives the right of such party thereafter to enforce compliance with these terms of trade.

16.2 **Entire Agreement** - These terms of trade record the entire agreement between the parties and prevails over any earlier agreement, written or oral, which are of no further effect.

16.3 **Amendments** - No amendment to these terms of trade is enforceable unless it is in writing and signed by the parties.

16.4 **Further Assurance** - Each party will promptly do everything reasonably required to give effect to these terms of trade.

16.5 **Partial Invalidity** - If any part of these terms of trade is held to be invalid or unenforceable by any judicial or other competent authority but would be valid or enforceable if some part of the provision were modified or deleted, the provision in question will apply with the minimum modification or deletion necessary to make it valid and enforceable, and the other provisions in these terms of trade will be unimpaired and will remain in full force and effect.

16.6 **Governing Law** - These terms of trade are governed by and will be construed in accordance with the laws of New Zealand. Any dispute will be determined by the exclusive jurisdiction of the New Zealand Courts.
- ## Customer Acknowledgement
- You confirm that you have read and accept these Terms and Conditions of Trade for the provision of Branding, Web, Photography and Marketing Services by The Zoo. Or agree to 8.1 of the Terms and Conditions of Trade.
- Signed:
- Name:
- Date:
- TERMS AND CONDITIONS OF TRADE