

**THE SMALL BUSINESS PROJECT
TERMS OF TRADE – ADVISORY ACCELERATOR**

This Agreement is made between **THE SMALL BUSINESS PROJECT PTY LTD (ABN 26 648 432 455)** (the “Company”) of PO Box 1558, Southport BC in the State of Queensland and the Client as set out below.

By pressing the ‘I Accept’ button and/or registering to sign-up for the Advisory Accelerator training, you agree to be bound by these terms. These terms constitute a binding agreement between you and the Company.

THE PARTIES AGREE, as follows:

- 1. Appointment.** The Client engages the Company and the Company accepts the appointment, and will carry out the Services within the Territory on the terms and conditions set out herein.
- 2. Term.** The appointment of the Company shall continue for the term as agreed between the parties in writing, including but not limited to the dates of the Advisory Accelerator training.
- 3. Obligations of The Company.** The Company must:
 - 3.1 provide the Services with a high degree of diligence, quality and efficiency, devote its time, attention and skill to the performance of the Services;
 - 3.2 whilst so providing the Services, remain an independent contractor at all times and, as such:
 - (a) assume full responsibility for their acts and omissions; and
 - (b) be solely responsible for any payments in respect of any employment benefits payable, including any sick leave, long service leave, superannuation, workers' compensation, accident, sickness and life insurance in respect to The Company; and
 - (c) provide all necessary tools to carry out the Services; and
 - 3.3 whilst so providing the Services, provide prompt and full information to the Client regarding the performance of the Services.
- 4 Deliverables and Services**
 - 4.1 The Parties agree that the Company shall provide the Services of Advisory Accelerator training to the Client.
 - 4.2 The Company warrants that as at the date of this Agreement and during the Term:
 - (a) the Services will be performed:
 - (i) with due care and skill in as competent and professional manner as reasonably possible;
 - (ii) in accordance with generally applicable industry standards; and
 - (iii) in accordance with all applicable laws and regulations.
 - (b) The Company is knowledgeable and has the requisite qualifications and experience in the field in which the Company has been appointed;
 - (c) all work provided by the Company:
 - (i) subject to Clause 4.2 (c), is the original work of the Company;
 - (ii) has not been and will not be copied from other work unlawfully;
 - (iii) has in place all consents, approvals, authorities and licenses necessary to carry out the Services lawfully; and
 - (d) where the Company's work is knowingly based on other works, the Company has obtained the necessary rights in those works.
 - 4.3 The Client agrees and warrants to the Company that, both during the Term and thereafter:
 - (a) unless expressly authorised by the Company in writing, the Services provided to the Client shall be for the sole use of the Client. The Client hereby agrees and acknowledges that the Services shall not be used by or shared with the Client's affiliates or any third party.
 - (b) Unless expressly authorised by the Company in writing, the Client shall not:
 - (i) disclose, use, disseminate, reproduce or publish any portion of the Service(s) in any manner;
 - (ii) permit any related company, parent company, subsidiaries, affiliated entities or any other third parties to use the Service(s) or any portion thereof; and/or

(iii) use the Service(s) to create derivative products.

(c) It shall not use the Service(s) in any way that:

(i) infringes any third party's copyright, patent, trademark, trade secret, or any other proprietary rights of intellectual property; and/or

(ii) violates any law, statute, or regulation.

(d) Unless expressly authorised in writing by the Company, the Client shall not remove, alter or hide any proprietary notices in the Service(s) provided by the Company hereunder, and agrees to reproduce all such notices on all copies or part thereof.

4.4 Nothing in this Agreement makes the Company liable for any comment made by a participant in the course of the Company's provision of the Services. For the purposes of this clause 4.4, comment includes a statement published orally, in writing, or by an image in any manner about an identifiable person.

5. Intellectual Property

5.1 In this Agreement, "Intellectual Property" means all existing and future intellectual property rights including, but not limited to, copyright (both present and future subsisting throughout the world), registered and unregistered trade marks, trade names, slogans, logos, emblems, computer data and digital representations, designs, industrial designs, drawings, trade secrets, visual representations, registered and unregistered patents, know-how and patentable inventions.

5.2 The Company grants to the Client a royalty-free, fully-paid, non-transferable and non-exclusive right and licence for the duration of the Term to use the content in the Services.

5.3 The Client acknowledges that it acquires no beneficial interest in the Company's Intellectual Property which at all times remains the property of the Company.

5.4 The Client agrees and warrants that it shall not share or distribute any content and/or Intellectual Property included in the Services (whether in whole or part thereof), unless specifically agreed between the parties.

5.5 The Client agrees and acknowledges that the Company shall be permitted to share and distribute content created in the intensive with the Client with other clients and customers of the Company, provided only that such distribution does not breach this Agreement, the copyright and/or moral rights of the Company, privacy laws and/or other relevant legislative provisions.

Case Studies

5.6 The Client grants the Company a perpetual, worldwide, irrevocable, licence to use, reproduce and display any case studies ("Case Studies") created using results received in relation to the Services carried out, and that such Case Studies may be used for both marketing and promotional purposes and/or further studies, including but not limited to the Company's research, publications, website, proposals, marketing materials, the press, and on any other websites owned and/or operated by the Company, provided always that the Case Studies shall remain anonymous and that each shall be approved in writing by the Client.

6 Fees and Invoices

7.1 The Client agrees to pay to the Company the Advisory Accelerator intensive Fees plus GST as agreed between the Parties.

7.2 The Company shall provide to the Client invoices for Services provided as follows:

(a) showing the amount payable to the Company; and

(b) the invoice shall be a tax invoice in accordance with applicable tax legislation.

7.3 The Client will pay each invoice within seven (7) days of receipt of the invoice, but agrees that it must be paid at least seven (7) days prior to the intensive.

7.4 The Client agrees and acknowledges that the Company shall not commence Services until the Fees have been paid in full.

7.5 In the event that this Agreement is terminated by either Party pursuant to Clause 13 of this Agreement, then the Client agrees to immediately pay any unpaid Fees and/or the balance of any unpaid instalment plan in respect to the Fees.

7.6 The Client agrees and acknowledges that in the event that the Client fails to pay an invoice by its due date, that access to the Services may be suspended, denied, or removed.

7.7 In the event that an invoice is not paid within fourteen (14) days of the due date, the Company reserves the right to charge late payment interest at a rate of one and a half percent (1.5%), not to exceed the maximum permitted by law.

- 7.8 Dishonoured payments will incur a \$25.00 administrative fee. In the event that the Client's account incurs a second dishonoured payment, the Company reserve the right to terminate this Agreement.
- 7.9 Should it become necessary for the Company to enforce any term of this Agreement either through legal representation, collection agency, or directly through a small claims Court, then the Client agrees that it shall pay all reasonable legal fees, agency fees, court costs, and other reasonable collection costs.
- 7.10 The Company reserves its rights to review, amend, or vary its Fee structure at any time, provided it gives the Client thirty (30) days written notice of any variation.

8. Refunds and Cancellations

- 8.1 To the extent permissible by law, the Company will not refund, exchange or redeem for cash any Fee made to it for Services ("Payment"), unless otherwise agreed by the Company in writing.
- 8.2 In the event that any Advisory Accelerator intensive is cancelled and rescheduled by the Company, the Client will only be refunded if they cannot attend (on a bona fide basis) on the re-scheduled date.

9. Relationship of Parties

- 9.1 The relationship between the Client and the Company is that of a principal and an independent contractor. Nothing in this Agreement will constitute or deem the Company to be an employee of the Client nor will anything in this Agreement be construed as creating an employment relationship between the Client and the Company.

10. Confidentiality

- 10.1 The following is Confidential Information of the Parties:

- (a) technology and all information clearly marked confidential, software architecture, programs, source code, software, designs, systems, methods and procedures, trade secrets, ideas, know-how, plans, concepts and information whether in writing or otherwise, details of customers, business, sales, marketing or promotional information and financial information;
- (b) information or communication that is designated by an employee, officer or agent of the Parties to be confidential;
- (c) information or communication the recipient knows or reasonably ought to know is confidential or is held in confidence on behalf of a third party;
- (d) Intellectual Property of either Party or that Party's clients or partners;
- (e) that part of all notes and other records prepared based on or incorporating information referred to in subparagraph (a); and all copies of information and those parts of the notes and other records referred to.

- 10.2 Both Parties must:

- (a) keep all Confidential Information secret and confidential;
- (b) not use all or any of the Confidential Information otherwise than for the provision of Services under this Agreement;
- (c) take all reasonable and necessary precautions to maintain the secrecy and prevent the disclosure of any Confidential Information.

- 10.3 The Parties covenant and warrant that they shall at all times act in good faith in accessing the Confidential Information and shall not act in any way contrary to the commercial interests of the other Party and shall not knowingly circumvent the other Party in its dealings with any other third party as at the date of this Agreement or whilst this Agreement is in force.

- 10.4 The Parties acknowledge and agree that the Confidential Information is confidential and of significant commercial value and that damages may not be a sufficient remedy for a breach by the receiving party of this Agreement.

- 10.5 The obligations of confidentiality set out in this Agreement are continuing and shall survive for five (5) years from the termination of this Agreement.

11. Non Solicitation

- 11.1 The Parties must not directly or indirectly or through interposed entities on any account in any capacity including on their own account or in partnership or joint venture with any other person, from the date of this Agreement to six (6) months after completion of the provision of Services, solicit, employ or contract any employee or contractor of the other Party, unless otherwise agreed in writing;
- 11.2 The Parties acknowledge that the restraints under this Clause are reasonable in terms of duration and extent and are reasonably necessary to protect the business interests of the Parties.

12. Release and Waiver

- 12.1 The Client hereby gives the Company, its licensees, successors, legal representatives, and assigns the absolute and irrevocable right and permission to use the Client's name and to use, reproduce, edit, exhibit, project, display, copyright, publish and/or resell photography images and/or moving pictures and/or videotaped images of the Client with or without their voice, or in which the Client may be included in whole or in part, photographed, taped, videotaped, and/or recorded during the Advisory Accelerator training and thereafter ("Content"), and to circulate the same in all forms and media for art, advertising, trade, competition of every description and/or any other lawful purpose whatsoever. The Client further consents to the use of any printed matter in conjunction therewith.
- 12.2 The Client hereby waives any right they may have to inspect and/or approve the finished product or products or the editorial, advertising, or printed copy or soundtrack that may be used in connection therewith and any right that the Client may have to control the use to which said product, products, copy and/or soundtrack may be applied.
- 12.3 The Client hereby releases, discharges and agrees to save the Company, its licensees, successors, legal representatives and assigns from any liability by virtue of any blurring, distortion, alteration, optical illusion or use in composite form whether intentional or otherwise that may occur or be produced in the making, processing, duplication, projecting or displaying of said picture or images, and from liability for violation of any personal or proprietary right that the Client may have in conjunction with said pictures or images and with the use thereof.
- 12.4 The Company, its successors, assigns and licensees shall have the right to alter, edit, modify, adapt, reproduce and illustrate the Content for any use. All right, title and interest in and to the Content shall be vested in the Company and any of its subsidiary and affiliated companies, successors, assigns and licensees.

13. Termination

- 13.1 This Agreement may be terminated by mutual agreement between the Parties prior to expiry of the Term.
- 13.2 Either Party may terminate this Agreement immediately if:
- (a) the other Party commits any act of dishonesty, fraud, wilful disobedience, or wilful misconduct in the course of carrying out this Agreement;
 - (b) the other Party breaches any material term contained this Agreement;
 - (c) any of the following occurs in respect of either Party:
 - (i) The commission of any act of bankruptcy;
 - (ii) The entering into or resolution to enter into an arrangement, composition or compromise with or assignment for the benefit of their creditors generally or a class of creditors or proceedings are called to sanction such arrangement, compromise or composition;
 - (iii) The appointment of a receiver, receiver and manager, official manager, trustee, administrator or similar official is appointed, or steps are taken for such appointment, over any assets or undertaking;
 - (iv) The suspension of payment of debts generally; and/or
 - (v) The Party becomes unable to pay its debts when they are due or is or is presumed to be insolvent.

14. Limitation of Liability

- 14.1 Except as provided for in this Agreement, the Company makes no representation of any kind, express or implied with respect to the delivery of the Services.
- 14.2 To the extent that any warranty is made, the sole and exclusive remedy for breach of any warranty is that the Company re-provide the Service(s).
- 14.3 No warranty is made by the Company for the performance of third party software, content or equipment or internet service provider and Wi-Fi latency.
- 14.4 No warranty is made by the Company in respect to: (i) that the Service will meet the Client's specific requirements, (ii) that the Service will be uninterrupted, timely, secure, or error-free, (iii) that the results that may be obtained from the use of the Service will be accurate or reliable, (iv) the quality of any products, services, information, or other material purchased or obtained by the Client through the Service will meet the Client's expectations, and (v) that any errors in the Service will be corrected.

- 14.5 The Client agrees to indemnify, defend and hold harmless the Company, its related entities, shareholders, agents, affiliates, employees, directors and officers, from any and all liability, claim, loss damage, demand or expense (including reasonable legal costs) asserted by any third party due to, arising from, or in connection with any breach by either party of the terms of this Agreement. This includes, without limitation, any representation or warranty contained herein, any fraudulent conduct committed or negligence by either party, all liabilities related to the Services, any investigation or government claim, and/or any intellectual property claims associated with any and all copy and images supplied by either Party and its associated use thereof.
- 14.6 No action arising under or relating to this Agreement, regardless of its form, may be brought by either Party more than six (6) months after the cause of action has accrued and in any event, no later than six (6) months after the termination of this Agreement, except for an action for non-payment brought by The Company.
- 14.7 The Company shall bear no liability whatsoever under or in any way related to this Agreement for any loss, loss of profit, or revenue or for any consequential, indirect, incidental, or exemplary damages.
- 14.8 If Australian Consumer Law or any other legislation implies a condition or warranty into this Agreement in respect of the Services supplied, and the Company's liability for breach of that condition or warranty may not be excluded but may be limited, Clause 13.1 does not apply to that liability and instead The Company's liability for such breach is limited to the Company supplying the services again or paying the cost of having the services supplied again by a third party.

15. This Agreement

- 15.1 This Agreement shall be subject to the laws of the Queensland, Australia, and the parties irrevocably submit to the non-exclusive jurisdiction of the Courts of Queensland.
- 15.2 Any provision of, or the application of any provision of, this Agreement which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- 15.3 Any provision of, or the application of any provision of, this Agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- 15.4 If a clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this Agreement.
- 15.5 The failure of either party at any time to require performance by the other party of any provision of this Agreement does not affect the party's right to require the performance at any time.
- 15.6 The waiver by either party of a breach of any provision must not be held to be a waiver of any succeeding breach of the provision or a waiver of the provision itself.
- 15.7 This Agreement supersedes all previous agreements, arrangements, understandings, representations or any other communication in respect of the subject matter of this Agreement and embodies the entire agreement between the parties.
- 15.8 This Agreement may not be changed or modified in any way subsequent to its execution except in writing signed by the parties.
- 15.9 In this Agreement, headings are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:
- (a) words importing the singular include the plural and vice versa;
 - (b) words with a capital letter where defined in this Agreement have that meaning;
 - (c) words importing a gender include any gender;
 - (d) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
 - (e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
 - (f) a reference to any thing (including, but not limited to, any right) includes a part of that thing;
 - (g) a reference to a party in a document includes that party's successors and permitted assigns;
 - (h) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing it, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;

- (i) a reference to a document or agreement includes all amendments or supplements to, or replacements or novations of, that document or agreement.

15.10 The Client indemnifies the Company against any or all taxation liability arising from this Agreement or Services provided to the Client.

15.11 The foregoing provisions of this Agreement apply except as otherwise agreed in writing between the Client on the one hand and the Company on the other.