
Terms & Conditions

-1- Legally binding agreement

Once accepted by a customer, this document (“T&Cs”) becomes a legally binding agreement between Verity Design Pty Ltd trading as Verity (“Verity”) and that customer (“Customer”) (each a “party” and collectively the “parties”) with respect to services described in any proposal or quotation (“Proposal”), or as discussed by the parties.

The Customer may accept this agreement by signing these T&Cs (whether physically or electronically) or by signing any Proposal incorporating these T&Cs. Acceptance may also be given by email or inferred by conduct (for example by paying a commencement invoice).

A Proposal may contain terms supplementary to these T&Cs. Where a Proposal is accepted, the supplementary terms do not constitute a variation of these T&Cs, they form a new agreement between Verity and the Customer, incorporating those supplementary terms and these T&Cs. If there is any conflict between the terms of a Proposal and the terms in these T&Cs, the terms in the Proposal will take precedence.

This agreement shall be in force when it is validly accepted as above, notwithstanding this may be prior to services and billing commencing.

-2- Customer’s obligations

The Customer agrees to work with Verity in a courteous, proper, and diligent manner at all times and in compliance with all relevant laws and trade customs.

The Customer will promptly provide all information, feedback, instructions, and materials relating to the services whenever requested by Verity.

The Customer acknowledges that Verity is reliant on the Customer providing clear and specific information, feedback, and instructions promptly, to be able to deliver the services without delay and to the Customer’s expectations.

-3- Services

Verity will provide the services with all due care, skill, and ability but subject to any specified limitations described in these T&Cs, in a Proposal or as otherwise agreed between the parties.

Verity shall provide the services as an independent contractor of the Customer. These T&Cs do not create any relationship of partnership or joint-venture between Verity and the Customer.

Verity provides four broad categories of service:

- Creative and Design
- Marketing
- Website and Application Design
- Website Hosting and Support

Where a Proposal is given to the Customer, the Proposal will outline the scope of services to be provided.

-4- Website and Application Services

Site credits

Verity may place a credit statement on any website or application designed by Verity. This statement may include a link to Verity's website. Verity may periodically maintain the credit statement without notice.

Maintenance

Where Verity is providing support services for a website or application, Verity may apply fixes and updates periodically.

Fixes and updates as part of support services relate to maintenance only. Verity is not obliged to make improvements to any website or application. If the Customer would like any improvements to be made to the website or application, Verity may at its discretion negotiate this by way of a separate agreement for a fee.

Verity will endeavour to minimise disruption by scheduling non-urgent maintenance and upgrades after-hours. Verity does not guarantee that this will always be possible nor does it guarantee that the website or application will have 100% uptime.

Verity may specify in a Proposal its target uptime for a website or application. The Customer will have no claim against Verity if this target is not achieved. The Customer has no right to terminate the agreement unless this target is persistently not achieved and the dispute resolution provisions have been complied with.

Internet, software, and device requirements

All websites and applications require the use of supported devices and web-browsers and may require a working and reliable internet connection. Verity does not warrant that websites or applications will perform properly where there is no internet connection or where the internet connection is unreliable or unsupported devices or web-browsers are used. Any support requests to address such problems are chargeable. Verity will provide advice as to the current supported devices and web-browsers as requested.

Security

Verity is not a specialist information security firm. If security is an important aspect of a website or application, Verity recommends that all work completed is audited by an information security professional before being deployed into a live environment. This includes assessing the suitability of any hosting to be provided.

Verity does not represent that it will find potential security vulnerabilities. It is important that the Customer make their own reasonable risk assessments.

The Customer releases Verity and holds Verity harmless for any security breach of its website or application. The Customer indemnifies Verity against any losses, damages or costs associated with such a breach, including consequential damages and any third-party costs or losses.

-5- Timeframes and Delay

The Customer must advise Verity if a project or part of the services being provided is time critical, before the commencement of the services or as soon as the Customer becomes aware of any time requirements. Verity will use its best endeavours to satisfy the time requirements as advised by the Customer.

Any completion timeframes provided by Verity are estimates only. Verity will make reasonable efforts to achieve timeframes as indicated. However, the Customer is not entitled to withhold any payments or take adverse action where specified timeframes are not achieved.

-6- Final products

Unless otherwise specified in a Proposal, where a fixed price has been provided for services, one minor design revision for products created is included in the price. Further revisions will be charged on an ad-hoc basis at the hourly rate.

The Customer is not entitled to withhold acceptance or payment for any services on the basis that unstated expectations have not been met or they are not happy with the works produced.

-7- Variation to services

The Customer may request to vary the scope of services by notifying Verity in writing. Where Verity receives such a request, Verity will endeavour to provide a written proposal as to the contract fee and updated scope within ten business days. The Customer may accept the variation proposal in writing within five business days. In the absence of such acceptance, the services must be performed in accordance with the existing agreed services.

-8- Sub-contractors

Verity may sub-contract work to third-parties to assist in the delivery of services.

Verity is responsible to the Customer for all such sub-contracted work as though the work was done personally by Verity, subject to any limitations stated in these T&Cs or Proposal, or otherwise agreed.

Printing services

Verity provides printing services through third-party providers. All products to be printed need to be fully approved by the Customer before Verity will send them for printing. The Customer is responsible for all errors and omissions once approved by them. All printing services are subject to the third-party's terms and conditions, and the Customer is bound by them. Verity can provide these terms and conditions on request. Verity does not provide any warranties or guarantees about the printing services. Any warranty or guarantee lies with the third-party provider.

Hosting services

Verity provides hosting services through third-party providers. The hosting service is subject to the third-party's terms and conditions, and the Customer is bound by them. Verity can provide these terms and conditions on request. Verity does not provide any warranties or guarantees about the hosting services and does not make any guarantees about uptime. Any warranty or guarantee lies with the third-party provider.

Domain name

Verity may agree to assist the Customer in obtaining a domain name. The Customer is responsible for the domain and will be listed as the owner and main contact. The domain will be subject to the domain provider's terms and conditions, and may also be subject to .au Domain Administration Ltd's policies. The Customer is responsible for maintaining the domain and paying all renewal fees.

-9- Term

Services and billing shall commence on the date of acceptance, or later date agreed between the parties.

Verity may provide services on a project, fixed term, or ad-hoc basis.

Verity may suspend or terminate (at its absolute discretion) the services if:

- the Customer commits any significant breach that is not capable of remedy; or
- the Customer commits any significant breach that is capable of remedy, and fails to remedy that breach within 7-days of notification by Verity; or
- the Customer persistently commits any less-serious breach despite a written warning being given by Verity; or
- the Customer becomes insolvent; or
- Verity is no longer able to provide the services due to a force majeure event.

Verity is not required to initiate the dispute resolution procedure in these T&Cs if it wishes to suspend or terminate the services in accordance with this clause. However, if the Customer feels that such suspension or termination is unjust, it may initiate the dispute resolution procedure in this agreement.

For the avoidance of doubt, failure to pay any fee within seven days of the due date for payment of that fee will constitute a significant breach of these T&Cs.

The Customer waives all claims against Verity for any losses howsoever incurred by the Customer (or any third-party) for the suspension or termination of services under these T&Cs. The Customer indemnifies Verity for any costs incurred in defending this release or any third-party claim on a full indemnity basis.

-10- Fees payable

Unless otherwise specified in a Proposal, the Customer should assume that every hour of work completed by Verity will be chargeable under these terms. This includes Customer meetings (other than an initial free consultation), planning, scoping, design work, preparing documentation (other than quotations), consulting, travel, and any preparation time thereof.

Any estimate of fees given is not a formal quotation unless explicitly stated. The Customer agrees to pay all invoiced amounts, even where this exceeds the estimate.

Unless otherwise agreed, Verity's current hourly rate is \$160.00 per hour, and Verity's rate for urgent or after-hours work is \$220.00 per hour.

Ad-hoc services are itemised and time spent is rounded up to the nearest 15 minutes on a per-person, per-job code, per-day basis. The minimum charge for Ad-hoc services is 30 minutes.

All prices are quoted as exclusive of GST unless otherwise indicated. The Customer must pay any applicable GST on top of any fees otherwise payable.

Unless an alternative invoice schedule is agreed, all invoices are raised monthly on strict 14-day terms.

Where an agreed commencement invoice is issued, it is payable upon receipt by the Customer. Verity may delay work until payment is received.

If the parties agree to the payment of an amount upon the completion of a project or ad-hoc engagement, a completion invoice will be issued immediately after the completion of that project, or ad-hoc engagement and the amount invoiced is payable on 14-day terms.

Verity reserves its rights to send any amount that is more than 7-days overdue to a debt recovery agent. Any costs associated with recovery, including any legal fees, are payable by the Customer on a full indemnity basis.

Where the term of the agreement is longer than 12-months, and no pricing adjustments are noted in the Proposal, the agreement will be subject to annual pricing adjustments of 3.5% per annum for all fees unless waived in writing by Verity.

-11- Intellectual property

The Customer will provide Verity with materials required for the services as requested. The Customer warrants that Verity will not be in breach of any other third-party's intellectual property rights by using the materials as provided for in these terms. The Customer retains full ownership of any intellectual property rights in any such documents, designs, trademarks, code, or patentable process ("Customer IP"). The Customer licenses the Customer IP to Verity for the purposes contemplated under these terms.

Verity will retain all intellectual property rights in any works or products created by Verity, excluding any Customer IP. Verity will grant the Customer a perpetual and fee-free licence to use the final product for its agreed purpose. Unless otherwise agreed, this license will not include rights to modify the final product. Verity may agree to include rights to modify for an additional fee.

Unless otherwise agreed, working files and design proofs (including any conceptual work, sketches, or preliminary concepts presented to the Customer but not chosen for the final design) will not be provided or licenced to the Customer. Verity may agree to provide and licence working files and design proofs for an additional fee.

-12- Confidential information

Each party agrees to keep all confidential information supplied under these T&Cs confidential and to use any such information only for the purpose for which it was disclosed.

Despite the above assurance, Verity reserves its rights to disclose confidential information as reasonably required (and only to the extent necessary):

- to its bankers or professional advisers;
- to associated entities, staff, contractors, or third-party suppliers that are involved in the provision of products or services under this agreement;
- to perform credit checks or share credit performance information with credit rating agencies;
- to publish the name of the Customer and its logo on Verity's website and marketing material;
- to collect de-identified and/or aggregated usage data for market research and other purposes; and
- as required by law.

The above paragraphs relating to confidential information survive termination of this agreement.

-13- Privacy

Each Party agrees to comply with its obligations under the Privacy Act 1998 (Cth) and with the Australian Privacy Principles (APPs) concerning any personal information provided to Verity by the Customer.

The Customer releases any claims and indemnifies Verity on a full indemnity basis for defence costs or third-party claims relating to a failure by the Customer to comply with the APPs.

The Customer warrants that they will (and warrants that all personnel will) obtain consent from the relevant third party before providing any personal information about a third party. Such consent must include consent for Verity to access and use the personal information in accordance with this agreement and Verity Design Pty Ltd's Privacy Policy. Verity Design Pty Ltd's Privacy Policy can be provided on request.

Verity may use cloud hosting services outside Australia to store data including Personal Information as required. The Customer acknowledges that it has been notified of these potential cross-border data flows for the purposes of complying with the APPs.

-14- Warranties, indemnities, and releases

Verity agrees that any works or services provided to the Customer will be of merchantable quality and fit for any purpose agreed and specified by the parties in writing. The Customer bears all responsibility for properly evaluating the works for its particular needs to the extent that a proper evaluation would have likely prevented or mitigated any losses claimed. To the greatest extent permitted by law, Verity excludes any other implied warranties (including for negligence, consequential damages, and third-party claims) and the Customer releases Verity from all claims associated with any such legally excludable warranty claims. The Customer indemnifies Verity for any losses or claims it may incur in defending any such claim relating to any warranties that are validly excluded or limited.

The Australian Consumer Law may imply certain rights, remedies, conditions, and warranties into this agreement, which cannot be excluded. Nothing in this agreement attempts to exclude the operation of the Australian Consumer Law if it applies to this agreement.

To the extent that any warranty obligation does exist, Verity's liability shall be limited to (in Verity's absolute discretion):

- providing a full refund of the fees paid as applicable for that service (for the period in question, and if the period in question exceeds 12-months, for 12-months); or
- rectifying the problems leading to the warranty claim within a reasonable timeframe and/or supplying again any services provided.

Despite any other provision in this agreement, Verity's absolute limit of liability for all claims, in the aggregate, whether in equity, tort, common law, contract or statute law, including for negligence, consequential damages and third-party claims, shall be limited to \$50,000. It is a condition precedent of this agreement that the Customer accepts this limitation of liability and indemnifies Verity against any costs or losses associated with defending any claims in excess of this limit on a full indemnity basis.

All indemnities, releases, exclusions, and limitation of liability provided by this agreement survive termination.

-15- Dispute resolution

Any dispute or difference arising out of or in connection with these T&Cs shall be settled by binding arbitration. These T&Cs are governed by the laws of South Australia, and any dispute resolution process shall be conducted in South Australia.

Either party may request an arbitrator be nominated by the President of the Resolution Institute. Ideally, both parties would negotiate in good faith beforehand. However, this is not a condition precedent to arbitration.

The parties agree to adopt a fast-track arbitration process in accordance with the Resolution Institute rules and where the quantum of the dispute is less than \$50,000 in the aggregate, the parties agree to resolve the dispute by the submission of documents alone unless otherwise reasonably determined by the arbitrator.

-16- Communication and Notice

Unless otherwise agreed in writing, communications about the services may be by phone or email.

Formal notices will be by email, to the creative partner responsible for your services.

Notice is deemed to have been received when it successfully leaves the sender's outbox unless it can be proven that the recipient did not receive it.

Some notices under these terms may explicitly require acknowledgement to be effective.

-17- Other terms

Any term in this agreement that is void, illegal or unenforceable for any reason may be severed by a court or arbitrator of competent jurisdiction, leaving the remainder of the agreement intact and enforceable.

No failure to insist on timely or strict compliance with any term of this agreement shall constitute a waiver that releases the offending party from that or any subsequent breach of this agreement unless agreed in writing by the parties.

The Customer shall have no right of set-off against the fees payable under this agreement.

Verity may assign its rights and obligations under this agreement to an associated entity. Other than the preceding, the parties may not assign or otherwise transfer their rights or obligations under this agreement without the written consent of the other party. Such consent shall not be unreasonably withheld.

Each signatory to this agreement warrants personally that he or she has the applicable authority to bind the represented party to this agreement.

-18- Interpretation

References to an "associated entity" have the same meaning as in s50AAA of the *Corporations Act 2001* (Cth)

References to any statute or regulation will include references to any statute or regulation that replaces the original as applicable.

Executed as an Agreement

SIGNED for and on behalf of the Parties by their respective duly authorised representative who by signing personally warrants their authority to execute this Agreement:

Signature	Full name	Position
Business name	Date	

Verity

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