

## Date

## Parties

<b>Principal</b>	<b>Beata Kade as Trustee For the Kade Family Trust</b> (ABN 54 624 600 340) trading as Art of Multimedia Pty Ltd Address: 4 View St, West Pennant Hills NSW 2125 Email: <a href="mailto:beata@artofmultimedia.com.au">beata@artofmultimedia.com.au</a>  (the <i>Principal</i> )
<b>Contractor</b>	Ashish Verma, <b>director of Arushinfotech</b> Address: 19 c6b Janakpuri Email: <a href="mailto:ashish.arush85@gmail.com">ashish.arush85@gmail.com</a>  (the Contractor)

## Recitals

- A. From time to time the Principal will be engaged by a third party (the **Third Party**) for the purpose of undertaking work and the Principal will be required to adhere to certain terms.
- B. The Principal has agreed to engage the Contractor to provide the Services to the Principal, and the Contractor has agreed to provide the Services to the Principal, as an independent contractor on the terms of this agreement.
- C. This agreement is intended to be legally binding and the parties agree to give effect to the arrangements contemplated by it.

## Operative provisions

The Recitals form part of the operative terms of this agreement.

### 1. Engagement as Contractor

- 1.1. For the purposes of this agreement, the term **Services** means the services provided by the Contractor to the Principal under this agreement in respect of each Scope of Services.
- 1.2. The Contractor will provide the Services to the Principal in accordance with the terms of this agreement.
- 1.3. The Contractor's engagement with the Principal will begin on the date of this agreement and this agreement will cover all engagements of the Contractor by the Principal until it the agreement is terminated in accordance with clause 11.
- 1.4. The Contractor is an independent contractor of the Principal and nothing in this agreement constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between the parties.
- 1.5. The Contractor acknowledges and agrees that it is not entitled to, and promises to the Principal that it will not, bring any Claim against the Principal in respect of, any workers compensation (unless the Principal has confirmed to the Contractor in writing that they will be covered by the Principal's workers compensation), superannuation, sick leave, annual leave, long service leave or other personal leave or any other entitlement of employment.

## 2. Provision of the Services

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2.1. In respect of each engagement for the Contractor to provide Services under this agreement, the parties must first agree upon a scope of services which will include agreement regarding:

- (a) The Services to be provided by the Contractor;
- (b) The manner in which the Services are to be provided;
- (c) The price of the Services; and
- (d) Any other terms as agreed between the parties in relation to the Services which may include additional requirements and/or documentation from the Principal's client.

### (Scope of Services)

2.2. Agreement regarding the Scope of Services may be reached via:

- (a) A written brief; and/or
- (b) Email correspondence between the parties; and/or
- (c) Verbal conversations between the parties,

depending on the nature and complexity of the Services and the specific requirements of the Principal's client.

2.3. In providing the Services to the Principal the Contractor must:

- (a) be honest and diligent and provide the Services to it to the best of its knowledge and abilities;
- (b) at all times maintain reasonable ethical, professional and technical standards;
- (c) protect the Confidential Information and Intellectual Property of the Principal and the Principal's clients;
- (d) take all reasonable steps to maintain in good working order, and protect and ensure the security of, all Principal Property;
- (e) In all client dealings, represent the Principal in a professional manner and display service-oriented conduct at all times;
- (f) ensure that all email correspondence between the Contractor and any customer, client, supplier or Representative of the Principal are conducted solely through an email address provided by the Principal for that purpose, and that relevant team members of the Principal are copied into all correspondence unless otherwise agreed;
- (g) refer all discussions between the Contractor and any customer or client of the Principal about budgets, or quotes for additional work, to the Principal. Should on the spot estimates become absolutely necessary, these must always be in hourly or daily terms, rather than monetary;
- (h) in relation to any Personal Information (as defined by the *Privacy Act 1998* (Cth)) of any customer, client, supplier or Representative of the Principal, any user or prospective user or any other person, comply with:
  - (i) the *Privacy Act 1998* (Cth) and any guidelines, information sheets and other relevant material issued from time to time by the Commonwealth Privacy Commissioner; and
  - (ii) any approved privacy policy and procedures adopted from time to time by the Principal.
- (i) if relevant to the Services, observe the rules, recommendations and guidelines of the Advertising Standards Bureau, the Advertising Standards Board, the Advertising Claims Board, the Federation of Australian Commercial Television Stations, the Federation of Australian Radio Broadcasters, the Australian Competition and Consumer Commission and the Australian Broadcasting Authority and the codes of conduct laid down by those bodies or any other accepted standard of advertising that may be appropriate and will ensure that all Services provided under this agreement conform with those bodies and that all advertising placed by it is legal, decent, honest and truthful;

- (j) if relevant to the Services, ensure that any third party who is identified by name as endorsing the Principal's client's activities (**the Endorser**) executes an agreement in a form approved by the Principal's client or its solicitors verifying the contents of or material contained in any and all advertisements made by the Endorser and that the Endorser consents to any abridgment, alteration or addition to the content or material contained in any and all advertisements made by the Endorser and where the Endorser is represented as having particular qualifications or credentials that the representation is true in every respect;
- (k) obtain all necessary consents, performance rights, licences or authorisations from all and any third parties who have the capacity to give the same in relation to any photograph, drawing or other representation of a living individual or any facsimile signature or any photograph, drawing or other representation of any animal or any inanimate object or for the engagement of any person as artist, model, actor (collectively referred to as the **Artist**) or otherwise used for the purposes of providing the Services.
- (l) If required by the Principal's client, require Artists engaged by the Contractor for the provision of the Services to execute an agreement in a form approved by the Principal's client.

### **3. Subcontracting & Contractor's staff**

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- 3.1. The Contractor may subcontract part or all of the Services, provided that the Principal has given its prior written consent and provided that the Contractor must ensure that any such third party:
  - (a) complies with the provisions of this agreement including, clause 7 (Confidentiality), and clause 8 (Intellectual Property) and clause 12 (Non-solicitation)) as if the third party was a party to this agreement in the place of the Contractor; and
  - (b) at the Principal's request, provides a direct undertaking to the Principal in relation to such compliance; and
- 3.2. The Principal will not be liable to bear the Contractor's costs of engaging any of its employees, contractors or other third parties, including on account of salaries, wages, superannuation, leave and other employment entitlements, income tax, payroll tax, fringe benefits tax, workers compensation insurance and other overheads, and the Contractor will be solely responsible for bearing all such costs.

### **4. Pricing**

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#### **Pricing**

- 4.1. In respect of each Scope of Services, the parties will agree on the total price for the relevant Services (exclusive of GST and excluding any Agreed Expenses) (**Fees**) and the Contractor will invoice the Principal by way of a single invoice for all Charges (being Fees and Agreed Expenses) following completion of each Scope of Services to the reasonable satisfaction of the Principal.
- 4.2. Any variation to the agreed Fees for a Scope of Services must be agreed upon between the Principal and the Contractor in writing.

#### **Reimbursement of Expenses**

- 4.3. The Principal will pay all reasonable expenses properly and necessarily incurred by the Contractor in the course of providing the Services, provided that:
  - (a) the Contractor:
    - (i) obtains the Principal's written consent before incurring the expenses (**Agreed Expenses**); and
    - (ii) provides the Principal with acceptable documentation for the Agreed Expenses; and
  - (b) the Principal will not be required to reimburse the Contractor for any amount of GST that the Contractor has paid, or is liable to pay, in relation to any supply acquired by the Contractor from any third party if the Contractor has received, or is entitled to receive, an input tax credit for that GST.

## 5. Payment

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### Timing of payments

- 5.1. The Principal will pay to the Contractor all Charges properly invoiced in accordance with clause 4 in full, on or before the date that is 14 days after the Principal's receipt of the relevant invoice.
- 5.2. Tax invoices provided to the Principal by the Contractor must:
  - (a) specify the Contractor's ABN;
  - (b) specify the Principal's job reference; and
  - (c) Be a valid tax invoice.
- 5.3. Any variation to the Fees agreed in the Scope of Services must be itemised separately in any tax invoice issued to the Principal.

## 6. GST

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- 6.1. Unless expressly stated otherwise, any sum payable, or amount used in the calculation of a sum payable, under this agreement has been determined without regard to GST and must be increased on account of any GST payable subject to the receipt of a valid tax invoice.

## 7. Confidentiality

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- 7.1. In this agreement the term **Confidential Information** means all information relating to the Principal, any customer, clients, suppliers, distributors or joint venture partners of the Principal and/or any of the business or financial affairs of any of them, including:
  - (a) any information that is specifically designated by any of them as confidential;
  - (b) any information which, by its nature, may reasonably be regarded as confidential;
  - (c) any information relating to any:
    - (i) agreements, arrangements or terms of trade with any existing or prospective customers, clients, suppliers, distributors or joint venture partners or other contractual counterparties;
    - (ii) customers, clients, suppliers, distributors, joint venture partners, employees, technologies, products, services, proposals, market opportunities, business or product development plans, pricing, financial position or performance, capabilities, capacities, operations or processes; or
    - (iii) Intellectual Property Rights,  
of the Principal and/or any customer, clients, suppliers, distributors or joint venture partners of the Principal and
  - (d) any note, calculation, conclusion, summary or other material derived or produced partly or wholly from any such information.
- 7.2. The Contractor acknowledges that in providing the Services the Contractor may be in receipt of or exposed to Confidential Information vital to the Principal's business and that of its clients.
- 7.3. Subject to clauses 7.5 and 7.6, the Contractor must:
  - (a) keep all Confidential Information confidential;
  - (b) not use or exploit any Confidential Information in any way except in the proper performance of the Services in accordance with this agreement;
  - (c) not disclose or make available any Confidential Information in whole or in part to any third party;

- (d) not copy, reduce to writing or otherwise record any Confidential Information except in the proper performance of the Services in accordance with this agreement (and any such copies, reductions to writing and records will be the property of the Principal); and
- (e) ensure that any and all Representative of the Contractor to whom the Contractor discloses Confidential Information in accordance with clause 7 (**Authorised Third Party Disclosees**):
  - (i) comply with the obligations in this agreement as if each of them was a party to this agreement in the place of the Contractor; and
  - (ii) do not do, or omit to do, anything which, if done or omitted to be done by the Contractor, would constitute a breach of this agreement by the Contractor.

7.4. The Contractor shall be responsible for, and liable to the Principal in respect of, the actions or omissions of any and all of its Authorised Third Party Disclosees in relation to the Confidential Information as if they were the actions or omissions of the Contractor.

#### **Exceptions**

7.5. The Contractor may disclose Confidential Information to those of its Representatives who have an actual need to know the Confidential Information but only in the proper provision of the Services and performance of its duties under this agreement and provided that it informs such Representatives of the confidential nature of the Confidential Information before disclosure and the other party agrees in writing that the Confidential Information is not to be disclosed to a third party.

7.6. Subject to clause 7.7, the obligations in clause 7.1 will not apply to any Confidential Information which (as shown by appropriate documentation and other evidence in the relevant Contractor's possession):

- (a) is or becomes generally available to the public, unless it became so generally available as a direct or indirect result of having been disclosed by any person:
  - (i) in circumstances that constitute a breach of this agreement by the Contractor (including any breach under clause 7.3(e)); or
  - (ii) that owed a confidentiality obligation to the Principal in respect of that information at the time of such disclosure, in circumstances in which the Contractor knew, or ought reasonably to have known after due enquiry, that the person owed that confidentiality obligation to the Principal;
- (b) is required by law or court order to be disclosed, provided that the Contractor must:
  - (i) promptly notify the Principal in writing in advance of any such disclosure, if reasonably practicable; and
  - (ii) reasonably assist the Principal in obtaining confidential treatment for, or avoiding or minimising such disclosure of, the relevant Confidential Information to the extent reasonably requested by the Principal;
- (c) is authorised for release or use by the written pre-approval of the Principal but only to the extent of such written pre-approval.

7.7. The exceptions in clause 7.6 shall not apply to any specific Confidential Information merely because it is included in more generally non-confidential information, nor to any specific combination of Confidential Information merely because individual elements, but not the combination, are included in non-confidential information.

#### **Return of Confidential Information**

7.8. Upon the written request of the Principal, the Contractor must return all Confidential Information received in tangible or digital/electronic form by it or any of its staff, destroy any copies, summaries and/or extracts of such Confidential Information and confirm in writing to the Principal that it has complied with the requirements of this clause.

## 8. Intellectual Property

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- 8.1. For the purposes of this agreement, the term **Intellectual Property Rights** means patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, trade names, brand names, and domain names, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, rights in designs, ideas concepts, original compositions, artwork, finished advertisements, radio and television commercials, trade symbols, logos, slogans, rights in computer software, database rights, rights in confidential information (including know-how, trade secrets and marketing secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 8.2. For the purposes of this agreement, the term **Relevant IP** means all Intellectual Property Rights that the Contractor makes, develops or conceives (whether alone or with someone else, and whether during or outside normal working hours) in the course of, or arising out of, the provision of the Services and/or the Contractor's engagement with the Principal, including any Intellectual Property Rights made, developed or thought of:
- (a) during, as a consequence of, or in relation to the performance (whether proper or improper) of the Contractor's duties and responsibilities to the Principal under this agreement or otherwise;
  - (b) as a direct or indirect result of any person's access to any Confidential Information or Intellectual Property Rights of the Principal or any of its customers, clients or suppliers; or
- 8.3. The parties agree that all Relevant IP will be owned by, and vest in, the Principal or the Principal's client.
- 8.4. The Contractor hereby assigns, transfers and conveys to the Principal all current and future right, title and interest in all Relevant IP and acknowledges that all future Relevant IP will vest in the Principal or the Principal's client on and from creation.
- 8.5. The Contractor must do anything necessary, including executing any documents, for the purpose of effecting, perfecting and/or protecting the Principal's title or the Principal's client's title to any Relevant IP, in Australia or in such other countries as the Principal or the Principal's client may require at its discretion. The Contractor shall be responsible for its own costs in respect of any documents required to be executed in accordance with this clause.
- 8.6. The Contractor as beneficial owner assigns to the Principal absolutely and for the full term of the copyright therein all and any copyright in all the world in or arising out of any literary, dramatic, musical or artistic work or in any cinematographic film or sound recording or in any television or sound broadcast or any other work capable of being the subject of copyright including any work commissioned by the Principal or the Principal's clients or prepared for the Principal or the Principal's clients by the Contractor at any time prior to the date of this agreement (the 'copyright work') which is produced by the Contractor on behalf of the Principal or the Principal's clients at any time.
- 8.7. Where the production by the Contractor of any copyright work for the Principal or the Principal's clients will involve making use of any copyright work already in existence (**Existing Work**) the Contractor shall, prior to commencing such production for the Principal, obtain the necessary licence to use the existing work together with an indemnity from the licensor against any claims or proceedings which may be issued or threatened by any third party against the Principal and/or the Principal's clients for infringement of copyright in respect of the Contractor's use of the Existing Work for the purposes of providing the Services under this agreement. The Contractor undertakes to ensure that the Existing Work will be available throughout the life of the campaign in which the Existing Work is used and negotiate terms for an extension to the campaign if required to do so by the Principal or the Principal's client.
- 8.8. Where musical works are used for the purpose of providing the Contractor's Services, the Contractor shall give the required notices to copyright owners and pay all royalties as they fall due unless a different arrangement has been made with the Principal in writing.
- 8.9. The Contractor may not use or reproduce any Relevant IP or any other Intellectual Property Rights of the Principal or any of the Principal's customers, clients or suppliers without the Principal's prior written

approval, except in the proper provision of the Services and performance of its duties under this agreement.

- 8.10. The Contractor must immediately disclose in writing to the Principal any Intellectual Property Rights that the Contractor makes, develops or conceives that might reasonably be regarded as Relevant IP.

#### **Moral rights**

- 8.11. In this agreement the term:

- (a) **Moral Rights** has the same meaning as that term has in Part IX of the Copyright Act 1968 (Cth) (**Copyright Act**).
- (b) **Works** means all programs and programming and literary, dramatic, musical and artistic works within the meaning of the Copyright Act.

- 8.12. The Contractor consents to the doing of any acts, or making of any omissions, by the Principal or any of the Principal's employees, officers, contractors, agents, licensees or assigns that infringes its Moral Rights in any Works that constitute Relevant IP, including:

- (a) not naming the Contractor as the author of a Work; or
- (b) changing, adding to or deleting/removing any part of a Work if the Contractor is not named as the author of the altered Work,

whether those acts or omissions occur before, on or after the date of this agreement. The Contractor acknowledges that its consent pursuant to this clause 8.11 is genuinely given without duress of any kind and that it has been given the opportunity to seek legal advice on the effect of giving that consent.

#### **Non-infringement**

- 8.13. In providing the Services to the Principal, the Contractor must not infringe any rights in any Intellectual Property of any third parties and must not, without proper authorisation by the Principal, make any use of any Intellectual Property of any third party when providing the Services.
- 8.14. The Contractor warrants to the Principal that it has or will obtained all necessary consents from the authors of all copyright works such as to allow the Principal or the Principal's clients to perform any act which would otherwise constitute an infringement of those authors' moral rights in such copyright works.

### **9. Insurance**

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- 9.1. In this agreement, the term **Insurance Policies** means:

- (a) Workers compensation insurance cover;
- (b) Professional indemnity or commercial general liability insurance cover; and
- (c) Public liability insurance cover to the value of at least \$10 million in respect of each claim.

- 9.2. The Contractor must ensure that the Insurance Policies are taken out with reputable insurers, **unless the Contractor notifies the Principal in writing before providing the Services that it does not have one or more of the Insurance Policies**. The Contractor must supply to the Principal certificates of currency in relation to the Insurance Policies held by the Contractor. If cover under the Insurance Policies lapses or is or not renewed or is changed in any material way the Contractor must promptly notify the Principal.

### **10. Indemnity**

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- 10.1. The Contractor shall indemnify the Principal:

- (a) from and against, any and all Losses that may be suffered by the Principal and which arise, directly or indirectly, in connection with any breach of this agreement by the Contractor and/or any negligent or other tortious conduct in the provision of the Services by the Contractor;
- (b) against any loss the Principal or the Principal's clients may incur through loss, damage or destruction other than reasonable deterioration to any negatives, video tapes, photographs or



other materials in the possession of the Contractor and used or to be used for the purpose of providing the Services.

- 10.2. Each indemnity contained in this agreement is an additional, separate, independent and continuing obligation that survives the termination of this agreement despite any settlement of account or other occurrence and remains in full force and effect until all money owing, contingently or otherwise, under the relevant indemnity has been paid in full and no one indemnity limits the generality of any other indemnity.

#### **Remedies for breach**

- 10.3. The Contractor acknowledges and agrees that, in the event of any breach by the Contractor of the provisions of clause 7 (Confidentiality), clause 8 (Intellectual Property) or clause 12 (Non-solicitation), damages may not be an adequate remedy, and that the Principal may, in addition to any other remedies, obtain an injunction preventing any further breach by the other party and other equitable relief, without the necessity of showing actual damage and without any security being required, together with recovery of costs. Any Claims asserted by such other party against the first-mentioned party shall not constitute a defence in any such injunction action, application, or motion.

### **11. Termination**

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#### **Termination for Serious Misconduct**

- 11.1. Notwithstanding any other provision of this agreement, in the event of any Serious Misconduct, the Principal may immediately and without notice terminate this agreement and/or the Contractor's engagement in respect of any particular Scope of Services.

#### **Termination with notice**

- 11.2. The Principal may, without limitation to its rights under clauses 11.1, terminate this agreement at any time by giving at least 10 Business Days' notice to the Contractor.
- 11.3. The Contractor may terminate this agreement at any time by giving at least 10 Business Days' notice to the Principal. The Principal may waive all or part of such notice period.

#### **Effect of termination**

- 11.4. In the event of any termination of this agreement in any circumstances and for any reason whatsoever:
- (a) the Principal will remain liable to pay all Charges accrued up to and including the date of termination, whether or not invoiced prior to the date of termination; and
  - (b) the Contractor will send to the Principal a final invoice for the balance of any unbilled Charges accrued up to and including the date of termination and the provisions of clause 5 will apply.

#### **Principal Property and partially completed deliverables**

- 11.5. Upon the cessation of the Contractor's engagement under this agreement, the Contractor must immediately:
- (a) return to the Principal any and all Principal Property and Confidential Information that is in the possession, custody or control of it and/or its staff; and
  - (b) deliver to the Principal any and all partially completed deliverables that are included within the scope of the Services.
- 11.6. Termination of this agreement will not affect any rights or liabilities that the parties have accrued under it prior to such termination.
- 11.7. The obligations of the parties under clause 7 (Confidentiality), clause 8 (Intellectual Property), clause 12 (Non-solicitation) and this clause 11 will survive the termination of this agreement.



## 12. Non-solicitation

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- 12.1. The Contractor must not, during the course of this agreement and after, without the Principal's prior written consent, directly or indirectly:
- (a) **(non-solicitation of customers/clients)** interfere with or disrupt, or attempt to interfere with or disrupt, any relationship, whether contractual or otherwise, between the Principal and any of the Principal's customers or clients, or identified prospective customers or clients; or
  - (b) **(non-solicitation of staff)** induce, encourage or solicit any of the Principal's officers, employees, contractors or agents with whom the Contractor worked or had any personal contact in connection with the Services to cease their employment, engagement or agency with the Principal.

## 13. General

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- 13.1. This agreement contains the entire understanding between the parties in relation to its subject matter and supersedes any previous arrangement, understanding or agreement relating to its subject matter. There are no express or implied conditions, warranties, promises, representations or obligations, written or oral, in relation to this agreement other than those expressly stated in it or necessarily implied by statute.
- 13.2. If a provision of this agreement is invalid or unenforceable in a jurisdiction it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability, and the fact that a provision has been read down or severed in one jurisdiction does not affect the validity or enforceability of that provision in another jurisdiction, or the remaining provisions.
- 13.3. No failure, delay, relaxation or indulgence by a party in exercising any power or right conferred upon it under this agreement will operate as a waiver of that power or right.
- 13.4. This agreement may not be varied except by written instrument executed by all of the parties.
- 13.5. The Contractor must not assign any of its rights under this agreement without the prior written consent of the other party.
- 13.6. Delivery of an executed counterpart of this agreement by email in PDF or other image format, will be equally effective as delivery of an original signed hard copy of that counterpart.
- 13.7. This agreement and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) are governed by, and shall be construed in accordance with, the laws of New South Wales, Australia. The parties agree that the courts of New South Wales, Australia have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this agreement or its subject matter or formation (including non-contractual disputes or claims).

## 14. Definitions and Interpretation

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### Definitions

- 14.1. The following definitions apply in this agreement unless the context requires otherwise:
- Business Day** means a day (other than a Saturday, Sunday or public holiday) when banks in Sydney, New South Wales are open for business.
- Charges** means Fees and Agreed Expenses.
- Claim** means any claim, complaint, demand, proceeding, suit, litigation, action, cause of action or other legal recourse (whether in contract, tort, under statute or otherwise).
- Principal Property** means, at any particular time, any property of the Principal (including any laptop, mobile phone or other equipment, Confidential Information, Intellectual Property, documents, software, digital information (wherever stored), keys and/or access cards) that is in the possession, custody or control of the Contractor and/or its staff, or to which the Contractor and/or its staff otherwise have access, at that time.
- Fees** has the meaning given in clause 4.

**Governmental Agency** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

**GST** has the same meaning given to that expression in the GST Law.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as in force from time to time.

**GST Law** has the same meaning given to that expression in the GST Act.

**Losses** means any loss, damage, debt, cost, charge, expense, fine, outgoing, penalty, diminution in value, deficiency or other liability of any kind or character (including legal and other professional fees and expenses on a full indemnity basis) that a party pays, suffers or incurs or is liable for, including all:

- (d) liabilities on account of Tax;
- (e) interest and other amounts payable to third parties;
- (f) legal and other professional fees and expenses (on a full indemnity basis) and other costs incurred in connection with investigating, defending or settling any Claim, whether or not resulting in any liability; and
- (g) all amounts paid in settlement of any Claim.

**Representatives** means, in respect of a person, the employees, officers, consultants, agents and professional advisers of that person.

**Serious Misconduct** means any of the following on the part of the Contractor and any of its staff or representatives who are involved in work related to the Services:

- (h) committing any material or persistent breach of this agreement;
- (i) any conduct that, in the reasonable opinion of the Principal, constitutes a repudiation of this agreement;
- (j) committing, or being involved in any way in, any act of dishonesty, fraud, misrepresentation, theft or assault:
  - (i) in the course of its engagement with Principal; or
  - (ii) that affects any customer, supplier or other contractual counterparty of the Principal or its suitability for engagement with the Principal;
- (k) misleading the Principal in any material way;
- (l) ceasing to be legally entitled to reside or work in Australia;
- (m) engaging in any conduct that unduly causes risk to the health or safety of any person; or
- (n) wilfully neglecting its duties or gross incompetence.

**Tax Acts** means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth).

**Tax or Taxation** means:

- (o) any tax, levy, impost, deduction, charge, rate, compulsory loan, withholding or duty by whatever name called, levied, imposed or assessed under the Tax Acts or any other statute, ordinance or law by any Governmental Agency (including profits tax, property tax, interest tax, income tax, tax related to capital gains, tax related to the franking of dividends, bank account debits tax, fringe benefits tax, sales tax, payroll tax, superannuation guarantee charge, group or Pay as You Go withholding tax and land tax);
- (p) unless the context otherwise requires, stamp duty and GST; and
- (q) any interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of the above.

## Interpretation

14.2. The following rules of interpretation apply in this agreement unless the context requires otherwise:


- (a) headings in this agreement are for convenience only and do not affect its interpretation or construction;
- (b) no rule of construction applies to the disadvantage of a party because this agreement is prepared by (or on behalf of) that party;
- (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
- (d) a reference to a document (including this agreement) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;
- (e) references to recitals, clauses, subclauses, paragraphs, annexures or schedules are references to recitals, clauses, subclauses, paragraphs, annexures and schedules of or to this agreement;


- (f) a reference to any statute, proclamation, rule, code, regulation or ordinance includes any amendment, consolidation, modification, re-enactment or reprint of it or any statute, proclamation, rule, code, regulation or ordinance replacing it;
- (g) an expression importing a natural person includes any individual, corporation or other body corporate, partnership, trust or association and any Governmental Agency and that person's personal representatives, successors, permitted assigns, substitutes, executors and administrators;
- (h) a reference to writing includes any communication sent by post, facsimile or email;
- (i) a reference to time refers to time in Sydney, New South Wales and time is of the essence;
- (j) all monetary amounts are in Australian currency;
- (k) a reference to a "**liability**" includes a present, prospective, future or contingent liability;
- (l) the word "**month**" means calendar month and the word "**year**" means 12 calendar months;
- (m) the meaning of general words is not limited by specific examples introduced by "**include**", "**includes**", "**including**", "**for example**", "**in particular**", "**such as**" or similar expressions;
- (n) a reference to a "**party**" is a reference to a party to this agreement and a reference to a "**third party**" is a reference to a person that is not a party to this agreement;
- (o) a reference to any thing is a reference to the whole and each part of it;
- (p) a reference to a group of persons is a reference to all of them collectively and to each of them individually; and
- (q) words in the singular include the plural and vice versa.

\* \* \* \*

## Execution

EXECUTED as an agreement.

Signed by director of Arushinfotech and witnessed:		
Full Name	Capacity	Signature
Ashish Verman	Contractor	
	Witness	

Executed for and on behalf of <b>Art of Multimedia (ACN 087 037 652)</b> in accordance with section 127 of the <i>Corporations Act 2001 (Cth)</i> by:		
Full Name	Capacity (circle)	Signature
Beata Kade	Sole director Director Secretary	
Jason Stevenson	Witness	